

# Exhibit N

Lorena Ard

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IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION	
IN RE: DIGITEK PRODUCT LIABILITY LITIGATION MDL NO. 1968	
CARLA YORK, ET AL., ) PLAINTIFFS, ) V. ) MDL NO. 2:09-CV-00544 ACTAVIS TOTOWA, LLC, ET AL., ) DEFENDANTS. )	
DEPOSITION OF LORENA ARD, PRODUCED, SWORN AND EXAMINED ON THE 11TH DAY OF DECEMBER, 2009, BETWEEN THE HOURS OF 12:30 P.M. AND 3:21 P.M., AT THE OFFICES OF DINSMORE & SHOHL, 500 WEST JEFFERSON STREET, SUITE 1400, LOUISVILLE, JEFFERSON COUNTY, KENTUCKY, BEFORE LISA MIGLIORE BLACK, CERTIFIED COURT REPORTER--KENTUCKY AND NOTARY PUBLIC WITHIN AND FOR THE STATE OF KENTUCKY.	
*** *** *** APPEARANCES	
FOR THE PLAINTIFFS: LAWRENCE L. JONES, II, ESQ. LAWRENCE JONES, II, ESQ. BAHE, COOK, CANTLEY & JONES KENTUCKY HOME LIFE BUILDING 239 SOUTH FIFTH STREET SUITE 700 LOUISVILLE, KENTUCKY 40202	
FOR THE DEFENDANTS: HOLLY SMITH, ESQ. SHOOK, HARDY & BACON 2555 GRAND BOULEVARD KANSAS CITY, MISSOURI 64108 APPEARING VIA SPEAKERPHONE ON BEHALF OF MYLAN PHARMACEUTICALS INC., MYLAN BERTEK PHARMACEUTICALS INC., AND UDL LABORATORIES LESLIE E. CRISWELL, ESQ. TUCKER, ELLIS & WEST 515 SOUTH FLOWER STREET FORTY-SECOND FLOOR LOS ANGELES, CALIFORNIA 90071 APPEARING ON BEHALF OF ACTAVIS TOTOWA LLC, ACTAVIS INC., AND ACTAVIS ELIZABETH LLC	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 INDEX TO EXAMINATION 2 PAGE 3 EXAMINATION BY MS. CRISWELL 4 EXAMINATION BY MS. SMITH 5 EXAMINATION BY MS. CRISWELL 6 EXAMINATION BY MS. SMITH 7 EXAMINATION BY MR. JONES 8 EXAMINATION BY MS. CRISWELL 9 EXAMINATION BY MR. JONES 10 EXAMINATION BY MS. CRISWELL 11 CERTIFICATE 12 13 14 INDEX TO EXHIBITS 15 EXHIBIT 1, COMPLAINT 16 EXHIBIT 2, PLAINTIFF FACT SHEET 17 18 19 20 21 22 23 24 25
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	(DEPOSITION EXHIBITS 1 AND 2 WERE MARKED FOR IDENTIFICATION.)  LORENA ARD, AFTER BEING FIRST DULY SWORN, WAS EXAMINED AND DEPOSED AS FOLLOWS:  EXAMINATION  BY MS. CRISWELL: Q. Ms. Ard, my name is Leslie Criswell. I represent the Actavis defendants in this case, and Holly Smith is on the phone. She's counsel for the Mylan defendants. I'm going to start the questioning. If she has anything she wants to add that I forgot to ask you, or if she needs further clarification, she'll do that. You understand you're here giving a deposition in connection with the lawsuit that you're a plaintiff in? A. That's correct. Q. Okay. And have you ever given a deposition before? A. Not that I remember. Q. Okay. I'm sure you've had a chance to talk with your lawyer about what we're here to do

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1 today. I'm going to ask the questions. You're  
 2 going to answer the questions to the best of your  
 3 ability.

4 You're testifying under penalty of perjury as  
 5 if you were in a courtroom. You understand that?

6 A. Yes.

7 Q. For that reason, if I ask you something  
 8 you don't understand, it's okay for you to say, "I  
 9 don't understand what you want." And then I'll  
 10 rephrase it, repeat myself, whatever I need to do.  
 11 The same with Holly. If there's anything that you  
 12 don't understand, we want you to tell us.

13 When we're all done today, the transcript will  
 14 be put on paper. At some point, probably not too  
 15 far down the road, your lawyer is going to get it,  
 16 and he's going to contact you and say, "Okay. Now  
 17 you need to read this. You need to make any changes  
 18 you need to make in your testimony." You sign it  
 19 under penalty of perjury and date it, and then  
 20 you're done with the deposition process.

21 But if you make any changes at all after you  
 22 walk out of here today, I or any other attorney in  
 23 the case can comment on that to a judge, to a jury,  
 24 to a mediator, whoever. If you make a big enough  
 25 change in your testimony or something the defendants

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1 written record. So we have to have words.  
 2 Do you have any questions before we get  
 3 started?

4 A. I don't think so.

5 Q. Okay. You're feeling okay to go ahead  
 6 with this?

7 A. Yes.

8 Q. Is that yes?

9 A. Yes.

10 Q. I got you.

11 A. You did get me, didn't you?

12 Q. You are a nurse.

13 A. That's correct.

14 Q. Yeah, and you've been a nurse for a  
 15 number of years.

16 A. Yes.

17 Q. For how long?

18 A. More than 40.

19 Q. And what type of specialization do you  
 20 have in that field?

21 A. Since 1997, I've been a psychiatric  
 22 nurse practitioner.

23 Q. Okay. Prior to that, what was your area  
 24 of focus?

25 A. I started out in obstetrics, and then I

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1 think is important, the suggestion could be Ms. Ard  
 2 either has no idea what she's talking about, so  
 3 she's guessing about stuff and she's giving  
 4 different answers here and there, or she's not  
 5 telling the truth. And you don't want to create  
 6 that impression, and we would like to get the  
 7 clearest testimony we can today about the class  
 8 action that's been filed.

9 We can take breaks. If you need to take a  
 10 break, just tell me that you need to take a break.  
 11 My hope is that we finish this thing by 5:00.  
 12 That's what I'm hoping. Maybe we get done quicker.

13 As we're going through this, while I'm talking,  
 14 if you would not talk, wait until I'm done and then  
 15 go ahead and give me your answer, and I'll really  
 16 try to do the same and not step on your answers with  
 17 the next question. It makes for a clearer record  
 18 with the court reporter. We don't all have to be  
 19 wondering later, "Was that really the question or  
 20 not the question? So does the answer make sense or  
 21 not?"

22 Uh-huhs and uh-uhs will not work. If you do  
 23 that, then someone in this room is going to say, "Is  
 24 that a yes or a no?" Nods and shakes of the head  
 25 don't work either for the same reason. It's a

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1 was a house supervisor for many years.

2 Q. What is an a house supervisor?

3 A. That's -- basically you are the nurse  
 4 reference in charge. In my case, it was on the  
 5 evening shift. If there's any problems, anything  
 6 that needs to be dealt with, they would call me.

7 Q. At a hospital?

8 A. At a hospital, correct.

9 Q. Was that job all at one hospital?

10 A. Yes.

11 Q. And which hospital was that?

12 A. That was Welborn Baptist Hospital in  
 13 Evansville, Indiana.

14 Q. And are you an Indiana resident at the  
 15 current time?

16 A. Correct.

17 Q. Okay. For how long have you been an  
 18 Indiana resident?

19 A. Most of my life, from age 10.

20 Q. Okay. All right. And you are how old  
 21 now?

22 A. 65.

23 Q. Okay. So for 55 years, you've been a  
 24 resident --

25 A. Yes.

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Lorena Ard

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1 Q. -- of Indiana?  
 2 A. Thank you for the subtraction, yeah.  
 3 Q. Okay. Have you ever been a resident of  
 4 Kentucky?  
 5 A. Yes, I've lived in Kentucky. My family  
 6 is all from Kentucky.  
 7 Q. Okay. And when were you a resident of  
 8 the State of Kentucky?  
 9 A. When I was eight years old.  
 10 Q. And that's it?  
 11 A. Uh-huh.  
 12 Q. Is that yes?  
 13 A. Yes.  
 14 Q. Okay. All right. I want to understand  
 15 at the outset here what claims you are making in  
 16 this case.  
 17 What are your claims in this lawsuit?  
 18 A. I received dosages of Digitek that were  
 19 inappropriate, and they gave me cardiac symptoms for  
 20 an extended period of time.  
 21 Q. Okay. Now, are you talking specifically  
 22 about Digitek or some other form of the same kind of  
 23 medication?  
 24 A. I'm talking about specifically Digitek.  
 25 Q. Okay. And what was it about the dosage

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1 A. No, I hadn't even had any,  
 2 unfortunately. My husband was cooking it.  
 3 I also had a regular heart rhythm [sic].  
 4 Q. Irregular?  
 5 A. Irregular heart rhythm, and that was  
 6 intermittent.  
 7 Q. Any other symptoms?  
 8 A. I was very limited as far as activity  
 9 would be concerned. I would get short of breath,  
 10 although I did get short of breath without activity  
 11 also.  
 12 Q. Okay. Any other symptoms that you  
 13 noticed in the October/November time frame that you  
 14 attribute to Digitek?  
 15 A. The sleepiness, the fatigue, shortness  
 16 of breath. I'm just trying to think. Those were  
 17 the primary ones.  
 18 Q. Are there any others that you can think  
 19 of?  
 20 A. Not that I can think of at this moment.  
 21 Q. So what changed, if anything, in  
 22 October/November of '07 that coincided with the  
 23 symptoms now becoming -- I guess not becoming, but  
 24 beginning?  
 25 A. I'm not really sure except that I did

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1 that was not appropriate, to use your words?  
 2 A. I got all of the same symptoms that one  
 3 gets when one is toxic on Digitek. I was supposed  
 4 to be getting 0.25.  
 5 Q. And you were getting what?  
 6 A. Obviously I was getting more.  
 7 Q. Why do you say that?  
 8 A. Because I had symptoms.  
 9 Q. So your conclusion is because you had  
 10 symptoms, you must have been getting more than 0.25  
 11 milligrams in the tablet?  
 12 A. Correct.  
 13 Q. Over what period of time was this  
 14 happening?  
 15 A. I received Digitek from February of 2006  
 16 until about May 2008. I didn't start having  
 17 symptoms until October or November of '07, and those  
 18 continued to May of '08.  
 19 Q. Okay. So what symptoms did you begin to  
 20 experience in October or November of '07?  
 21 A. Fatigue, shortness of breath without  
 22 exertion, sleepiness to the point that I had a  
 23 houseful of company at Thanksgiving, and I went to  
 24 bed because I had to sleep.  
 25 Q. It's that turkey.

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1 get a new prescription of Digitek in October --  
 2 Q. Okay.  
 3 A. -- a refill.  
 4 Q. A refill from who?  
 5 A. Caremark.  
 6 Q. Caremark.  
 7 Okay. And is that -- for how long has Caremark  
 8 been your pharmacy?  
 9 A. Oh, 10, 15 years.  
 10 Q. Okay. So had Caremark been the place  
 11 that you had been getting prescriptions of Digitek  
 12 filled from February of '06 to October of '07?  
 13 A. Correct.  
 14 Q. Okay. Was it always 0.25 milligrams?  
 15 A. Yes.  
 16 Q. And was the dosage to be taken once a  
 17 day?  
 18 A. Yes.  
 19 Q. And the doctor that prescribed that  
 20 medication for you, was the same person from  
 21 February of '06 to May of '08?  
 22 A. Correct.  
 23 Q. And who was that?  
 24 A. Dr. Roshan Mathew.  
 25 Q. Okay. He's a cardiologist?

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1 A. Correct.  
 2 Q. Okay. So you got a refill in  
 3 October of '07 of 0.25 milligrams Digitek.  
 4 How many pills were in the bottle?  
 5 A. 30 -- well, no, there were 90 because it  
 6 was a three-month.  
 7 Q. Okay. And was that your typical refill,  
 8 was a 90-day --  
 9 A. Yes, mail-in.  
 10 Q. -- batch?  
 11 A. Yeah.  
 12 Q. Now, did this come in the mail?  
 13 A. Yes.  
 14 Q. Okay. So Caremark isn't -- you don't  
 15 walk up to the counter and get the medication?  
 16 A. You do now. They are affiliated with  
 17 CVS, but at that time, no.  
 18 Q. The Digitek that you received during  
 19 that '06 to '08 time frame, was it all delivered to  
 20 you by mail?  
 21 A. Yes.  
 22 Q. Okay. And was it always a 90-day  
 23 supply?  
 24 A. Yes.  
 25 Q. And did the 90 pills all come in

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1 Q. And your practice when you would finish  
 2 with the medication is dispose of the package?  
 3 A. Yes.  
 4 (A DISCUSSION WAS HELD OFF THE RECORD.)  
 5 BY MS. CRISWELL:  
 6 Q. When you would get a Caremark 90-day  
 7 supply, did it come with -- did the tablets come  
 8 with some kind of a package insert, instructions?  
 9 A. Yes, they did.  
 10 Q. Okay.  
 11 A. All of them did.  
 12 Q. Every time you would get something?  
 13 A. Yes.  
 14 Q. And that -- any of the medications that  
 15 you take, that's typical; you would get some type of  
 16 a package insert?  
 17 A. Correct.  
 18 Q. Okay. The Digitek that you received,  
 19 the 90-day supplies, did they come in plastic  
 20 bottles?  
 21 A. Yes.  
 22 Q. Okay. With a childproof cap?  
 23 A. Correct.  
 24 Q. Do you remember what color the bottles  
 25 were?

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1 one bottle?  
 2 A. Yes.  
 3 Q. All right. Do you have any of those  
 4 bottles?  
 5 A. I don't. My lawyer does.  
 6 Q. How many of the bottles does your lawyer  
 7 have?  
 8 A. A partial -- I'm not sure how many were  
 9 in there.  
 10 Q. Am I understanding he has one bottle  
 11 with some pills in it?  
 12 A. Correct.  
 13 Q. And which bottle -- which prescription  
 14 date is on that bottle?  
 15 A. It should have been -- let's see --  
 16 March.  
 17 Q. Of what year?  
 18 A. 2008. That's an approximate, but  
 19 March 2008.  
 20 Q. Okay. So if I understand, the  
 21 prescription you got refilled in October of '07 with  
 22 the 90 pills in it, that bottle wasn't kept; is that  
 23 correct?  
 24 A. No, right, it was not. It was -- the  
 25 medication was used and discarded.

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1 A. Clear.  
 2 Q. Clear.  
 3 Okay. And then the cap?  
 4 A. White.  
 5 Q. Okay. Did the bottle come inside of a  
 6 box?  
 7 A. It came inside of a bubble-wrapped  
 8 package --  
 9 Q. Okay.  
 10 A. -- sealed.  
 11 Q. So it was a mailer kind of thing?  
 12 A. Yes, yes.  
 13 Q. Okay. And the insert that would come  
 14 with it would be inside the bubble-wrapped package,  
 15 but loose from the plastic container?  
 16 A. Yes, it would depend on how many I was  
 17 getting at a time. Most of the time, they would be  
 18 together -- stapled together, but, yes.  
 19 Q. And what you mean by that is if you got  
 20 different kinds of medication all in one package,  
 21 one shipment, all of the informative literature may  
 22 have been stapled together?  
 23 A. Correct.  
 24 Q. Okay. Okay. When you opened up the  
 25 bottle that you got in October of '07 with the 90

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1 tablets inside to take the first one that you took,  
 2 did you notice anything different?  
 3 A. No.  
 4 Q. That entire 90-tablet batch, did you  
 5 notice anything about those pills that was -- one  
 6 pill looked different from the other or any of those  
 7 pills looked to you that it was different from  
 8 earlier prescriptions that you had filled for  
 9 Digitek from Caremark?  
 10 A. No.  
 11 Q. Okay. What color were the tablets?  
 12 A. White.  
 13 Q. And did they have any writing on them?  
 14 A. I don't remember that.  
 15 Q. Was there a score mark on the tablets so  
 16 you could break it in half?  
 17 A. I don't remember. I took a whole  
 18 tablet. So I didn't pay attention to that.  
 19 Q. You didn't have to break it in half?  
 20 A. That's correct.  
 21 Q. What time typically in the day would you  
 22 take the Digitek that you were taking?  
 23 A. In the morning.  
 24 Q. Okay. Did you take it with a meal?  
 25 A. No.

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1 A. Multiple vitamin, Toprol, furosemide.  
 2 Q. Can you spell that one?  
 3 A. Lasix, L-A-S-I-X, it's easier.  
 4 Q. Okay.  
 5 A. You put me on the spot trying to  
 6 remember. Allegra.  
 7 Q. Okay.  
 8 A. Potassium.  
 9 Q. Okay.  
 10 A. I believe that's most of it. I can't  
 11 remember anything else.  
 12 Q. Okay. Did you keep at home or are you  
 13 in the habit of keeping at home or somewhere any  
 14 kind of a record of your doctor appointments and  
 15 what medications you're taking?  
 16 A. Yes.  
 17 Q. And what do you call that?  
 18 A. The doctors' appointments will usually  
 19 go on my computer, or I'll stick a card on the  
 20 refrigerator like most people do. Medications -- I  
 21 keep a list of what medications that I'm taking.  
 22 Q. What is it that you keep?  
 23 A. Little three-by-five cards.  
 24 Q. So as the medications change, the dosage  
 25 or the mix of the medications change, you would make

Page 18

1 Q. Did you take it before a meal?  
 2 A. Yes.  
 3 Q. Okay. How long before a meal would you  
 4 typically take the Digitek?  
 5 A. Average, probably two hours.  
 6 Q. Okay. Was there a particular thought  
 7 process that you had that you ought to leave a  
 8 two-hour window in between?  
 9 A. I just --  
 10 Q. Just habit?  
 11 A. Habit.  
 12 Q. Are you, two hours before breakfast,  
 13 taking other medications, vitamins, things like  
 14 that?  
 15 A. Yes.  
 16 Q. Okay. So back in the -- let's say  
 17 2006/2007 time frame, what else would you typically  
 18 have been taking approximately two hours before  
 19 breakfast every morning other than your one tablet  
 20 of Digitek?  
 21 A. Thyroid medication.  
 22 Q. Okay. Do you remember what kind, the  
 23 name of it?  
 24 A. Levothyroid (phonetic).  
 25 Q. Okay.

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1 a new three-by-five card out?  
 2 A. Well, I would mark them out and add to  
 3 it because I had room on it.  
 4 Q. Okay. And the three-by-five cards,  
 5 after you were finished, you couldn't put any more  
 6 information on it, then what would you do with them?  
 7 A. Then I would make out a new one.  
 8 Q. Okay. In between October -- let's say  
 9 between January of '06 and now, have you had to make  
 10 new three-by-five cards?  
 11 A. I've only had to make one because my  
 12 medications didn't change a whole lot.  
 13 Q. Okay. And when do you remember having  
 14 to make a new three-by-five card?  
 15 A. I don't remember when it was.  
 16 Q. Okay. Do you keep the prescription that  
 17 the doctor would give you to go to the pharmacy to  
 18 order or to get medications? Do you keep those?  
 19 A. The prescription, no. I have to give  
 20 them to the pharmacy or send them in.  
 21 Q. So with Caremark, you send in the  
 22 prescription, and they would send you back the  
 23 medications?  
 24 A. Correct.  
 25 Q. Did you ever keep copies of those?

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1 A. No.  
 2 Q. So you take your medications, your  
 3 vitamins, potassium, Digitek, and then a couple of  
 4 hours later, you would have breakfast?  
 5 A. Yes.  
 6 Q. Did anybody ever recommend that you take  
 7 Digitek or any of the other medications at the same  
 8 time you were eating a meal?  
 9 A. No.  
 10 Q. Did anybody ever recommend that you take  
 11 them separate from a meal?  
 12 A. No.  
 13 Q. That was just your personal habit to do  
 14 it that way?  
 15 A. Correct.  
 16 Q. All right. So from February of '06,  
 17 when you started taking Digitek, until October of  
 18 '07, were you having any cardiac symptoms?  
 19 A. No.  
 20 Q. At all?  
 21 A. No.  
 22 Q. No. Were you having any of the fatigue  
 23 that you just described?  
 24 A. Only normal fatigue.  
 25 Q. Just being tired at the end of a day?

Page 22

1 A. Yes.  
 2 Q. So the difference in the fatigue after  
 3 October of '07 was what?  
 4 A. It was very noticeable.  
 5 Q. So give me an example. What would be --  
 6 what would have been something that would have been  
 7 very affected by the additional fatigue?  
 8 A. I would go to work, I would come home,  
 9 and go to bed.  
 10 Q. A typical time to come home was what?  
 11 A. 6:00.  
 12 Q. 6:00 p.m.?  
 13 A. Yes.  
 14 Q. And were you able -- then you slept all  
 15 night long?  
 16 A. Yes.  
 17 Q. Until breakfast time basically?  
 18 A. Once I got to sleep, yes. Number one, I  
 19 needed to rest, and then after that, I would go to  
 20 sleep. That would vary depending on how tired I  
 21 was.  
 22 Q. But your testimony is, after October of  
 23 '07, for a period of time you were much more  
 24 fatigued than you had ever been before?  
 25 A. Correct.

Page 23

1 Q. The shortness of breath, had you ever  
 2 experienced that before?  
 3 A. No.  
 4 Q. And the shortness of breath that you  
 5 described for me was shortness of breath even when  
 6 you were sitting down?  
 7 A. Correct.  
 8 Q. Not doing anything?  
 9 A. Correct.  
 10 Q. And the sleepiness, is that basically  
 11 the same thing as the fatigue?  
 12 A. No, that was very different also.  
 13 Q. Tell me about that.  
 14 A. As I stated, a whole houseful people,  
 15 and I would get very sleepy and have to go lie down,  
 16 and I would fall asleep. And that's very much out  
 17 of character for me. I just don't do that.  
 18 Q. Okay.  
 19 A. And they would come looking for me, and  
 20 I was in bed asleep.  
 21 Q. Okay. And intermittent irregular heart  
 22 rhythm you also identified as a symptom that you  
 23 had.  
 24 A. Yes.  
 25 Q. This irregular intermittent heart rhythm

Page 24

1 that you experienced in October of '07 was different  
 2 from any of heart sensations you had before?  
 3 A. Yes.  
 4 Q. And how so?  
 5 A. It's not unusual for all of us to have  
 6 premature ventricular contractions, and you'll  
 7 notice that, but this was very noticeable in the  
 8 fact that there were a lot more of them and that my  
 9 heart would be pounding along with them.  
 10 Q. Okay. When you say, "It's really for  
 11 all of us to have certain" -- what do you mean by  
 12 "all of us"?  
 13 A. All of us people in the world -- I mean,  
 14 it's not unusual, and it's usually not anything to  
 15 be concerned about unless it gets to be a lot and it  
 16 gets to be very noticeable.  
 17 Q. Okay. So after you opened that bottle  
 18 in October of '07 and you took the first one of that  
 19 new prescription of Digitek out and you swallowed  
 20 it, how soon was it that you began to experience  
 21 these symptoms that we've just been talking about?  
 22 A. That's difficult for me to say. It  
 23 seemed as though, as I look back on it, it was very  
 24 gradual, maybe a few weeks. But by November for  
 25 sure I was having symptoms, mild at first and then

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1 they got worse.

2 Q. Okay. So you gradually noticed -- was  
3 it -- describe for me what it was that you began to  
4 notice.

5 A. The fatigue and the irregular heart,  
6 those were the two main things I noticed.

7 Q. And then by November, you were feeling  
8 these symptoms that we just described in more a  
9 extreme sense?

10 A. Uh-huh, but they were intermittent. I  
11 might have two or three a week, and then a few days  
12 would go by, and I wouldn't have them.

13 Q. Okay. So what you're telling me is,  
14 some days, even after we're into now November of  
15 '07, so now you've been taking the new prescription  
16 for a month, even then what you're getting is some  
17 days you're fatigued and tired and you're having the  
18 irregular heart rhythm, shortness of breath, and  
19 some days no symptoms?

20 A. Some days fewer symptoms.

21 Q. Okay.

22 A. The fatigue was pretty well ongoing.

23 Q. How about the shortness of breath, the  
24 sleepiness, and the heart rhythm?

25 A. Shortness of breath was episodic as well

Page 25

Page 27

1 medications that you were taking --

2 A. No.

3 Q. -- or when you were taking your  
4 medications --

5 A. No.

6 Q. -- or the fact that you were taking --  
7 maybe you're taking some medications at different  
8 times of the day than you were used to taking them?

9 A. No.

10 Q. Are you still in February taking the  
11 Digitek, the vitamins, the potassium, the Toprol,  
12 the thyroid medicine, the Lasix, and the Allegra all  
13 at the same time in the morning?

14 A. And the potassium, yes.

15 Q. Are all of those medications a  
16 one-time-a-day thing?

17 A. Yes.

18 Q. Okay. Were there any other medications  
19 during this period that you were taking in the  
20 middle of the day or at the end of the day?

21 A. At the end of the day, I took another  
22 Toprol. I'm sorry. That was a twice-a-day  
23 medication.

24 Q. Okay. Anything else that you would  
25 typically take in the evening -- nighttime?

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1 as the heart rhythm irregularity. The sleepiness  
2 went along with the fatigue.

3 Q. Would you say you experienced the  
4 significant fatigue and sleepiness every single day?

5 A. Yes.

6 Q. And the other two symptoms, how often  
7 typically in the week? This is by November we're  
8 talking about.

9 A. I would say one to two times a week.

10 Q. December of '07, how were you feeling  
11 with respect --

12 A. About the same.

13 Q. Okay. So November/December, the  
14 symptoms really don't change, right?

15 A. Correct.

16 Q. January through May of '08, what is  
17 happening with those symptoms?

18 A. Into February, the symptoms got a lot  
19 worse, much more in the way of heart irregularity,  
20 much more shortness of breath. I couldn't go  
21 upstairs without being short of breath.

22 Q. Okay. That's February?

23 A. Correct.

24 Q. Is anything going on in February with  
25 respect to any change at all in the other

1 A. Oh, stool softeners, fiber. I would  
2 take my Zoloft. I would take an aspirin in the  
3 evening. That was my -- my doctor had ordered that.

4 Q. Okay.

5 A. I would take a calcium with D. I'm  
6 trying to remember what else I would take -- a fish  
7 oil, and that's all I can remember right now.

8 Q. Okay. And were those evening  
9 medications taken with dinner typically?

10 A. After dinner.

11 Q. After dinner.

12 How long after dinner?

13 A. Maybe an hour.

14 Q. Okay. And then basically that same  
15 group of p.m. medicines and supplements, was that  
16 going back into the early part of '06, the same  
17 routine?

18 A. Yes, yes.

19 Q. Are you still taking all of these  
20 medications and vitamin supplements now, other than  
21 the Digitek?

22 A. Yes.

23 Q. Okay. All right. Have you added  
24 anything to the list?

25 A. Spironolactone was added in February of

7 (Pages 25 to 28)

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Lorena Ard

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1    '08 -- of '07 -- I'm sorry, '08. I'm sorry.  
 2    Q. Anything else that you can recall?  
 3    A. Not that I can recall.  
 4    Q. Okay. Between February of '08 and May  
 5    of '08, did the symptoms get worse, get better, stay  
 6    about the same -- the ones we've talked about?  
 7    A. They stayed about the same. I would  
 8    still have the episodes. At that point, the  
 9    irregular heart was very noticeable, and I would get  
 10   light-headed to the point I would have to sit down.  
 11   Q. And when did that start?  
 12   A. That started in like the beginning of  
 13   February --  
 14   Q. Okay.  
 15   A. -- beginning to mid-February. That's  
 16   when I called my cardiologist.  
 17   Q. Okay. And the cardiologist is who?  
 18   A. Dr. Mathew.  
 19   Q. That's right. All right. So Dr. Mathew  
 20   is your cardiologist throughout all of this?  
 21   A. Right.  
 22   Q. So when you first began to notice the  
 23   significant fatigue and the shortness of breath  
 24   starts, the sleepiness, and the intermittent heart  
 25   rhythm in '07, did you talk to him?

Page 30

1    A. I can't recall. I do know that I talked  
 2    with my primary care doctor.  
 3    Q. Okay. Who is that?  
 4    A. That's Dr. David Johnson.  
 5    Q. Okay. So David Johnson you talked to  
 6    when, after you first started that new Digitek  
 7    prescription?  
 8    A. Oh, gosh, I'm thinking January.  
 9    Q. Okay. Is this for just a routine  
 10   follow-up?  
 11   A. It was a follow-up, but the focus was on  
 12   the fatigue.  
 13   Q. So let me understand. From October of  
 14   '07 to January of '08, the entire time you were  
 15   experiencing significant fatigue, which is gradually  
 16   worsening?  
 17   A. Correct.  
 18   Q. And, in fact, in November of '07, that  
 19   is a -- that's a daily problem now, right?  
 20   A. The fatigue.  
 21   Q. And the sleeplessness -- or sleepiness,  
 22   right?  
 23   A. Sleepiness, yes.  
 24   Q. Did you talk to any medical practitioner  
 25   at all, whether it's a treating doctor or just a

Page 31

1    friend, about the fatigue, the shortness of breath,  
 2    the sleepiness, or the irregular heart rhythm  
 3    between October of '07 and January of '08?  
 4    A. I believe that I spoke with Dr. Johnson.  
 5    I cannot remember that date, though. That would  
 6    have been my routine to have called my primary care  
 7    doctor.  
 8    Q. Your routine would be to call him, but  
 9    do you remember calling him to talk to him about it?  
 10   A. I do not remember the date.  
 11   Q. But you did call him?  
 12   A. I believe I did, to the best of my  
 13   knowledge.  
 14   Q. Is there any record of that that you're  
 15   aware of?  
 16   A. I didn't see one.  
 17   Q. Did you look for something that might  
 18   record that?  
 19   A. No.  
 20   Q. Okay. So let me understand. You  
 21   believe you did call him?  
 22   A. Uh-huh.  
 23   Q. Yes?  
 24   A. Yes.  
 25   Q. But you don't know exactly when it was?

Page 32

1    A. I don't recall when.  
 2    Q. And the January of '08 date that you  
 3    gave me a few minutes ago, was that an actual exam  
 4    in his office?  
 5    A. Yes.  
 6    Q. Do you believe you called him before  
 7    that?  
 8    A. I believe that I did, yes.  
 9    Q. What did you say, and what did he say?  
 10   A. I spoke with his nurse, spoke to them  
 11   about the fatigue. It was very close to my regular  
 12   exam, and so I followed up with that at that time.  
 13   Q. Okay. So does it sound like probably  
 14   the phone call was -- probably not before sometime  
 15   in December?  
 16   A. Correct.  
 17   Q. Okay. Was it after the new year that  
 18   you called?  
 19   A. It could have been.  
 20   Q. Okay. And then the appointment with  
 21   Dr. Johnson -- when you're on the phone before that  
 22   appointment -- back up.  
 23   Was that appointment already on your calendar?  
 24   A. Yes.  
 25   Q. Had that appointment been scheduled from

8 (Pages 29 to 32)

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Lorena Ard

<p style="text-align: right;">Page 33</p> <p>1      the last time you went in to see him?</p> <p>2      A.    Yes.</p> <p>3      Q.    And the last time you saw him was when?</p> <p>4      A.    It would have been six months before</p> <p>5      that. I believe it was June.</p> <p>6      Q.    That's your habit, every six months or</p> <p>7      so you go in for a checkup?</p> <p>8      A.    Yes.</p> <p>9      Q.    How about the cardiologist? Do you have</p> <p>10     kind of a standing routine for follow-up with him?</p> <p>11     A.    Yes.</p> <p>12     Q.    What is that?</p> <p>13     A.    It's usually about every six months --</p> <p>14     Q.    Okay.</p> <p>15     A.    -- with a treadmill about every year.</p> <p>16     Q.    So in the '06, '07, '08 time frame,</p> <p>17     you're seeing both doctors every six months pretty</p> <p>18     regularly?</p> <p>19     A.    I don't think we -- yes, as far as I</p> <p>20     know.</p> <p>21     Q.    Okay.</p> <p>22     A.    As far as I can recall.</p> <p>23     Q.    So when you called and you spoke with</p> <p>24     the nurse in Dr. Johnson's office right before you</p> <p>25     went to see him in January, you told her you were</p>	<p style="text-align: right;">Page 35</p> <p>1      A.    Yes.</p> <p>2      Q.    And what was his response to all of</p> <p>3      that?</p> <p>4      A.    He did lab tests. I can't remember all</p> <p>5      of them. He did check my thyroid and blood count,</p> <p>6      the things that you reasonably would do when someone</p> <p>7      has unexplained fatigue.</p> <p>8      Q.    Did he do any testing of blood levels</p> <p>9      for digitalis?</p> <p>10     A.    No -- not that I'm aware of. No, I</p> <p>11     shouldn't say that.</p> <p>12     Q.    Not that you're aware of?</p> <p>13     A.    Not that I'm aware of.</p> <p>14     Q.    Did you and he during that -- during</p> <p>15     that visit have any discussion at all about the</p> <p>16     medications you were taking?</p> <p>17     A.    We always review medications every</p> <p>18     visit.</p> <p>19     Q.    Okay. So when you review medications,</p> <p>20     how do you do that?</p> <p>21     A.    They already have a list, and we compare</p> <p>22     my current list with what they have, and correct it.</p> <p>23     Q.    Okay. Do you remember having to make</p> <p>24     any corrections during that visit?</p> <p>25     A.    No, I don't.</p>
<p style="text-align: right;">Page 34</p> <p>1      tired, yeah?</p> <p>2      A.    Correct.</p> <p>3      Q.    What else did you tell her about?</p> <p>4      A.    Tired and sleepy. That was the main</p> <p>5      concern I had at the time. That wasn't like me,</p> <p>6      particularly the sleeping.</p> <p>7      Q.    Okay. Did you tell her anything about</p> <p>8      irregular heart rhythm?</p> <p>9      A.    I told her I had had some of those, but</p> <p>10     those I usually reserved for Dr. Mathew.</p> <p>11     Q.    Okay. What about the shortness of</p> <p>12     breath at rest?</p> <p>13     A.    Yes, I did tell them about that -- just</p> <p>14     really tired and short of breath and...</p> <p>15     Q.    And do you know the name of the nurse</p> <p>16     that you spoke with?</p> <p>17     A.    No.</p> <p>18     Q.    Okay. Is it male or a female?</p> <p>19     A.    It was a female.</p> <p>20     Q.    Did you speak with the doctor on that</p> <p>21     phone call?</p> <p>22     A.    No.</p> <p>23     Q.    So you go in and see the doctor in</p> <p>24     January, and you tell him all the problems that you</p> <p>25     just told me?</p>	<p style="text-align: right;">Page 36</p> <p>1      Q.    Okay. So as far as you recall, your</p> <p>2      list and his list were the same?</p> <p>3      A.    Right.</p> <p>4      Q.    All right. Did you and he have any</p> <p>5      discussion during that visit about Digitek?</p> <p>6      A.    No.</p> <p>7      Q.    Did he have any explanation for you as</p> <p>8      to what was causing the significant fatigue,</p> <p>9      shortness of breath, sleepiness, and the irregular</p> <p>10     heart rhythm?</p> <p>11     A.    He did not. He did contact me -- or his</p> <p>12     nurse contacted me later on, and he did put me on an</p> <p>13     iron supplement, concerned maybe that my iron stores</p> <p>14     were not what they should be.</p> <p>15     Q.    Okay. Do you remember him giving you</p> <p>16     any explanation at all for these conditions?</p> <p>17     A.    No.</p> <p>18     Q.    Nothing.</p> <p>19     Okay. Okay. So when you left his office in</p> <p>20     January '08, you would have scheduled ahead for the</p> <p>21     next six-month visit, correct?</p> <p>22     A.    Correct.</p> <p>23     Q.    And do you remember, when was the next</p> <p>24     time you actually saw Dr. Johnson after that date?</p> <p>25     A.    I don't remember that date. It probably</p>

9 (Pages 33 to 36)

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1 should have been somewhere around June, but I don't  
 2 recall.  
 3 Q. As you sit here today, is it your  
 4 recollection that you didn't go back in to see him  
 5 specially in between?  
 6 A. Correct.  
 7 Q. Whatever the next routine six-month  
 8 visit was was the next time you saw him?  
 9 A. Correct.  
 10 Q. By the time you went to see him for the  
 11 next six-month visit, were you still taking Digitek?  
 12 A. Yes -- well, let's see. I should say --  
 13 that's '08. Probably not --  
 14 Q. Okay.  
 15 A. -- because in the meantime, because of  
 16 the irregularity that was so noticeable and the  
 17 dizziness that was even worse, I contacted  
 18 Dr. Mathew's office.  
 19 Q. Okay. I was going to move on to talk  
 20 about him.  
 21 Did you see him at all, to your knowledge,  
 22 between October of '07 and the time in January that  
 23 you saw Dr. Johnson?  
 24 A. I do not recall that I did.  
 25 Q. Do you recall calling his office to tell

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1 Q. When you got to that new prescription  
 2 bottle of 90 tablets, the prescription bottle from  
 3 October of '07 went in the trash?  
 4 A. Yes.  
 5 Q. Okay. Did you take any photographs of  
 6 the contents of the tablets or the label or  
 7 anything?  
 8 A. No. I don't usually photograph my  
 9 medicine.  
 10 Q. Okay. So the next bottle that you get,  
 11 do you remember when you got that one?  
 12 A. I do not remember exactly. It would  
 13 have been approximately three months from October.  
 14 So...  
 15 Q. Did you typically get the Digitek at the  
 16 beginning of the month, the middle, or the end; do  
 17 you remember?  
 18 A. I don't recall that. I mean, it would  
 19 just vary as to when my medication -- I mean, I  
 20 usually just take a look at the bottle, do I need a  
 21 refill, and get online and order it.  
 22 Q. Okay. The next bottle, now, after the  
 23 one in October of '07, the next bottle that came,  
 24 when you opened that bottle to take your first  
 25 tablet and swallow it, did you notice anything about

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1 him about these symptoms?  
 2 A. No, I did not.  
 3 Q. Okay.  
 4 A. Until they became much more, and that  
 5 was in February --  
 6 Q. Okay. So February --  
 7 A. -- end of January, first part of  
 8 February.  
 9 Q. And this is when all the symptoms are  
 10 much worse, and now you're having light-headedness  
 11 and dizziness as well?  
 12 A. Correct.  
 13 Q. And by the time that February rolls  
 14 around, are you now into another bottle of Digitek?  
 15 A. Correct.  
 16 Q. Okay. And that was clear plastic with a  
 17 white childproof cap?  
 18 A. Correct.  
 19 Q. 90 tablets?  
 20 A. Correct.  
 21 Q. 0.25 milligrams?  
 22 A. Correct.  
 23 Q. And you got them in the mail as you  
 24 typically did from Caremark?  
 25 A. Correct.

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1 those tablets that looked any different at all from  
 2 the tablets that you had been taking before?  
 3 A. No.  
 4 Q. Do you remember how thick they were?  
 5 A. No.  
 6 Q. Do you remember noticing if any of the  
 7 tablets in either of these two bottles were thicker  
 8 than any of the other tablets?  
 9 A. No.  
 10 Q. Okay. They are still white tablets?  
 11 A. Correct.  
 12 Q. Do you remember in this next bottle if  
 13 the tablets had any markings on them?  
 14 A. I don't.  
 15 Q. And were you into this next bottle of  
 16 Digitek when you started having the worse  
 17 symptoms --  
 18 A. Yes.  
 19 Q. -- in February of '08?  
 20 A. Yes.  
 21 Q. Okay. All right. So you go to see  
 22 Dr. Mathews [sic]. When did you see him first in  
 23 '08? When did you go to see him?  
 24 A. I don't remember the date. I did -- I  
 25 believe when I called, he wanted to have a Holter

10 (Pages 37 to 40)

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<p style="text-align: right;">Page 41</p> <p>1 monitor applied because of the irregular heart.      2 Q. And so you did that?      3 A. So I did that.      4 Q. Okay.      5 A. I did a 48-hour Holter monitor.      6 Q. And then you went in to see him?      7 A. Then I went in to see him.      8 Q. And you described all the symptoms      9 you've told me about?      10 A. Correct.      11 Q. Were there any other symptoms you were      12 having when you went in to see him?      13 A. Just those.      14 Q. What did he say about those?      15 A. He showed me the result of my Holter      16 monitor and scheduled me for a cardiac cath as soon      17 as he could get it in, and his thought at that time      18 is that one of my grafts had collapsed.      19 Q. One of your...      20 A. Cardiac grafts.      21 Q. Okay. What do you understand that that      22 means?      23 A. That means the new grafts that he put on      24 my heart, one of them wasn't open anymore.      25 Q. Okay. Was there any discussion at all</p>	<p style="text-align: right;">Page 43</p> <p>1 cath, correct?      2 A. Correct.      3 Q. What does that show?      4 A. My grafts were fine.      5 Q. Okay. And did you find out about the      6 results of that by going back in to see Dr. Mathew?      7 A. No.      8 Q. How did you find out about the results?      9 A. He was standing right beside me when I      10 was laying on the table.      11 Q. Okay. All right. All right. So then      12 is there some further discussions about what could      13 be causing your symptoms?      14 A. There was. He then admitted me to the      15 hospital into cardiac care because of the severity      16 of the ventricular flutter, which can be deadly.      17 And so I had stayed there awaiting a transfer to      18 Jewish Hospital here in Louisville so that I could      19 have an electrophysiology exam by a cardiologist      20 here. That's a specialty. So...      21 Q. Okay. And you were transferred to the      22 other hospital?      23 A. Yes.      24 Q. To Jewish Hospital?      25 A. Yes, by ambulance.</p>
<p style="text-align: right;">Page 42</p> <p>1 about the medications you were taking during that      2 visit with him?      3 A. No. The same as with Dr. Johnson:      4 Every time you go in, you update your medications.      5 Q. And to do that, would you have taken      6 that index card with you?      7 A. Uh-huh.      8 Q. Is that yes?      9 A. Yes.      10 Q. Do you remember, when you went to see      11 Dr. Mathew in '08 for the first time during that      12 year, were there any differences between his chart      13 of what medications you ought to be taking and      14 yours?      15 A. No, not that I recall.      16 Q. Were there any differences as to the      17 dosage you were supposed to be taking?      18 A. No.      19 Q. Okay. All right. So your recollection      20 is the only thing he has to say about the symptoms      21 is maybe one of the grafts --      22 A. Uh-huh.      23 Q. -- has not held up?      24 A. Correct.      25 Q. All right. So you go get the cardiac</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And you had the workup done?      2 A. Correct.      3 Q. And was Dr. Mathew there for that?      4 A. No.      5 Q. Who was the doctor?      6 A. Dr. Garimella.      7 Q. Okay. And after that was done --      8 A. He could not reproduce the irregularity.      9 Q. Was there any discussion that you had      10 with anybody there at the hospital, including Dr.      11 Garimella, about what was causing the irregularity?      12 A. Basically he said he did not understand      13 why -- although he had had pictures of what had      14 happened to me with the Holter monitor, he didn't      15 understand -- he did change my medication at that      16 point slightly. He added the spironolactone, 2.5,      17 twice a day.      18 Q. What is that supposed to do?      19 A. That a diuretic, but it was a      20 potassium-sparing diuretic. Anybody who has an      21 irregular heart, you don't want their potassium to      22 be too low.      23 Q. Okay. And that's the only medication he      24 changed?      25 A. That's the only medication he changed.</p>

11 (Pages 41 to 44)

Lorena Ard

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1 Q. And do you remember when you were at  
 2 Jewish Hospital for that?  
 3 A. Probably February 20th, 22nd, something  
 4 like that.  
 5 Q. Were you kept overnight for that?  
 6 A. Yes.  
 7 Q. Was it just the one night?  
 8 A. No, it was two nights.  
 9 Q. Two nights.  
 10 Okay. By the time you were discharged, how  
 11 were you feeling?  
 12 A. I was feeling fine.  
 13 Q. Okay. How about the shortness of  
 14 breath?  
 15 A. No.  
 16 Q. The fatigue was gone too?  
 17 A. Yes.  
 18 Q. The sleepiness was gone?  
 19 A. Yes.  
 20 Q. The irregular rhythms of your heart were  
 21 gone?  
 22 A. Yes.  
 23 Q. While you were in the hospital at Jewish  
 24 Hospital, did you continue to take Digitek or some  
 25 form of the same kind of medication?

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1 A. I did not take Digitek. I took  
 2 Lanoxin --  
 3 Q. Okay. Lanoxin.  
 4 A. -- in both hospitals.  
 5 Q. Oh, the first one and then Jewish  
 6 Hospital?  
 7 A. Right.  
 8 Q. Okay.  
 9 A. I went back and asked them what brand  
 10 they used after I got the recall because I could not  
 11 understand why I felt so good while I wasn't on the  
 12 medication, and then it all made sense.  
 13 Q. So you were on Lanoxin in the hospital,  
 14 same dosage?  
 15 A. Yes.  
 16 Q. 0.25?  
 17 A. Correct.  
 18 Q. Okay. When you were discharged from the  
 19 hospital, were you given a prescription for Lanoxin  
 20 or Digitek or digoxin?  
 21 A. My prescriptions had all been listed as  
 22 Lanoxin, but I got Digitek as a replacement. But I  
 23 did not get a new prescription from Dr. Garimella  
 24 because I already had the medication.  
 25 Q. So you already had some Digitek at

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1 home --  
 2 A. Uh-huh.  
 3 Q. -- right?  
 4 A. Correct.  
 5 Q. So you didn't get a new prescription for  
 6 anything like that?  
 7 A. No.  
 8 Q. All right. So when you went back home  
 9 again, then did you resume your once-in-the-morning  
 10 0.25 milligram Digitek?  
 11 A. Correct.  
 12 Q. Same routine, a couple of hours before  
 13 breakfast?  
 14 A. Correct.  
 15 Q. With the same medications and vitamins?  
 16 A. Correct.  
 17 Q. Did the symptoms come back?  
 18 A. Yes.  
 19 Q. When?  
 20 A. Within about a week, week and a half.  
 21 Q. And were they the same symptoms we've  
 22 talked about?  
 23 A. Yes.  
 24 Q. Were they -- were there any other  
 25 symptoms?

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1 A. No.  
 2 Q. Did they come back gradually or all at  
 3 one time?  
 4 A. I can't remember. I mean, I just  
 5 started noticing them again. So I just can't  
 6 remember which it was.  
 7 Q. Okay. So did you contact your doctors?  
 8 A. Yes, and -- well, they both wanted to  
 9 have at least a verbal follow-up.  
 10 Q. Okay. So you called both Mathew and  
 11 Johnson and you told them what?  
 12 A. Symptoms are the same.  
 13 Q. Okay. Everything is back?  
 14 A. Everything is back.  
 15 Q. And did you ask him what the heck is  
 16 going on?  
 17 A. Yeah.  
 18 Q. What did they say?  
 19 A. They weren't sure either.  
 20 Q. Okay. Did you go in to see them?  
 21 A. I don't believe I did.  
 22 Q. Okay. And for how long after that  
 23 release from Jewish Hospital was it that you  
 24 continued to suffer those symptoms?  
 25 A. That was like the end of -- the first

12 (Pages 45 to 48)

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1 part of March. I would have symptoms as I did  
 2 earlier in this whole thing, like the ones in  
 3 October, November, they were still there, but not as  
 4 severe as they had been through February, March.

5 MS. CRISWELL: Okay. Would you read  
 6 that back?

7 (THE PREVIOUS ANSWER WAS READ BACK BY  
 8 THE REPORTER.)  
 9 BY MS. CRISWELL:

10 Q. So I think what you're saying is, you  
 11 get out of Jewish Hospital, and a week or a week and  
 12 a half later, you have now resumed taking the  
 13 Digitek like you had before. So a week or a week  
 14 and a half later, you experience the same symptoms  
 15 as you had before, but they never get as bad as they  
 16 had in February of '08?

17 A. Correct.

18 Q. Okay. And for how long did those  
 19 continue?

20 A. They continued off and on until I got  
 21 the recall.

22 Q. And the refill was received about --

23 A. No, the recall.

24 Q. Oh, the recall. Okay.

25 A. I did get another refill, I think,

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1 A. Until the -- probably the first week,  
 2 week and a half in May.  
 3 Q. And what happened then?  
 4 A. I had gotten a letter from Caremark  
 5 telling me not to take them anymore -- not to stop  
 6 my medication, but to notify my primary care or my  
 7 cardiologist. They don't -- they didn't recommend  
 8 me stopping anything, but they wanted me to be  
 9 sure -- and they were going to replace my medication  
 10 with a different brand.

11 Q. What else did they say in the letter?

12 A. That there had been a recall, that  
 13 possibly the dosage was higher than it should have  
 14 been. That's all I can remember.

15 Q. Okay. You got the letter. You read the  
 16 letter?

17 A. Correct.

18 Q. And did you talk to your doctors about  
 19 it?

20 A. Yes, I did. Within a day, day and a  
 21 half.

22 Q. Who did you call?

23 A. Dr. Mathew.

24 Q. Okay. Did you call Dr. Johnson as well?

25 A. No.

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1 January -- there should have been one in March.  
 2 January, February, March.

3 Q. Okay.

4 A. So I get another 90 days then.

5 Q. Okay. You so got another 90 days maybe  
 6 somewhere in March, right?

7 A. Correct.

8 Q. Same pills?

9 A. Same pills, looked the same, no  
 10 difference.

11 Q. Same color?

12 A. Correct.

13 Q. Same shape?

14 A. Correct.

15 Q. Any idea how thick those pills were?

16 A. No.

17 Q. I mean, could you compare it to a dime  
 18 or a quarter or a penny or a nickel?

19 A. No, I couldn't.

20 Q. Okay. Did you ever -- well, all right.

21 So you get a new prescription, and it all looks  
 22 the same, same container, right?

23 A. Correct.

24 Q. All right. And you're taking these, and  
 25 for how much longer did you take Digitek?

1 Q. Okay. So you called Dr. Mathew, and you  
 2 told him about the letter?

3 A. Well, actually, I called him because I  
 4 was having some chest pain, which was something  
 5 unusual for me --

6 Q. Okay.

7 A. -- and talked with his nurse.

8 But I said to her, "By the way, I got this  
 9 letter for a recall for Digitek. I just wondered if  
 10 that could -- could that be causing it?"

11 She said, "Oh, yes, very definitely it could  
 12 have been." So she was going to call him and call  
 13 me back, which he did.

14 Q. Okay. So you called her because of  
 15 chest pain.

16 When did the chest pain first start?

17 A. During the day when I was working.

18 Q. Okay. So whatever day that was that you  
 19 called, it was --

20 A. It was that day, yes.

21 Q. Okay. And how much after the recall  
 22 letter was it that the chest pain first started?

23 A. Within -- within -- by the time --  
 24 within 24, 48 hours.

25 Q. Okay. All right. So she said, "I'll

13 (Pages 49 to 52)

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1 tell the doctor, and we'll call you back"?  
 2 A. Right.  
 3 Q. Did she seem to acknowledge that she was  
 4 aware of a recall?  
 5 A. I understood that she was, just by her  
 6 response when I -- when I said that I had gotten a  
 7 letter for recall.  
 8 Q. Okay. All right. And she said, "Yes,  
 9 these symptoms could be causing" --  
 10 A. Yes.  
 11 Q. -- "the chest pain"?  
 12 A. Yes, even the chest pain.  
 13 Q. Okay. All right. And then she called  
 14 you back or the doctor called you back?  
 15 A. She called me back.  
 16 Q. Okay. And what did she say?  
 17 A. Dr. Mathew wanted me to stop taking the  
 18 Digitek and actually stop Digitek -- none of it. He  
 19 didn't want me on none of it.  
 20 Q. Any of what?  
 21 A. Any form of digoxin, digitalis.  
 22 Q. Did you have other forms?  
 23 A. No -- well, yes, I did, because Caremark  
 24 had send me the Lanoxin brand.  
 25 Q. Okay. Let me back up. I understood you

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1 said that you got Lanoxin in the hospital.  
 2 A. Correct.  
 3 Q. Did you also get Lanoxin by way of a  
 4 prescription bottled from Caremark?  
 5 A. No.  
 6 Q. Okay.  
 7 A. Except when the recall happened, they  
 8 told me they were going to send me the Lanoxin brand  
 9 and that I should contact my cardiologist, and  
 10 that's what I did.  
 11 Q. Okay. So at what point were you  
 12 prescribed Lanoxin where it actually said, "Lanoxin"  
 13 other than in the hospital?  
 14 A. When Caremark sent me the replacement  
 15 pills --  
 16 Q. Okay.  
 17 A. -- for the Digitek.  
 18 Q. Okay. Did you return the Digitek that  
 19 you had?  
 20 A. No.  
 21 Q. Okay. They just sent you Lanoxin?  
 22 A. Correct.  
 23 Q. Okay. And the bottle with the partial  
 24 number of pills in it that your lawyer has, is that  
 25 the leftover that you had when you got the recall

Page 55

1 letter?  
 2 A. Yes.  
 3 Q. Okay. Do you remember how many pills  
 4 were left in the bottle?  
 5 A. No, I don't.  
 6 Q. It would have been less than 90?  
 7 A. Yes.  
 8 Q. Yeah. Did you give him any other  
 9 tablets that you believed to be Digitek or Lanoxin  
 10 or digoxin?  
 11 A. No.  
 12 Q. Okay. In your fact sheet, you identify  
 13 117 pills.  
 14 Where are those coming from; do you know?  
 15 A. 117?  
 16 Q. Okay. We'll walk through that in a few  
 17 minutes.  
 18 A. Okay.  
 19 Q. It just puzzled me.  
 20 All right. Before you gave the pill bottle  
 21 with the remaining pills in it from the most recent  
 22 prescription to your lawyer, did you count them out  
 23 to see how many there were?  
 24 A. No.  
 25 Q. Do you have any estimate as to how many

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1 there were?  
 2 A. That would just purely be a guess, maybe  
 3 25, 30. I don't know.  
 4 Q. Okay. Did it look to you -- I mean,  
 5 typically there would be 90 in the bottle, right?  
 6 A. Correct.  
 7 Q. Typically if there were 90 in the  
 8 prescription bottle, was the bottle pretty full?  
 9 A. No.  
 10 Q. What would be the level of the tablets  
 11 in the bottle?  
 12 A. About a third maybe.  
 13 Q. So even if it had 90, it would be a  
 14 third full?  
 15 A. Well, yes, because they were small  
 16 pills.  
 17 Q. Okay. All right. So when you sent the  
 18 bottle to your lawyer with the remaining pills in  
 19 it, thinking of how it would have looked if it had  
 20 90, can you give me some estimate as to how many  
 21 might have been left?  
 22 A. I don't recall. I really don't.  
 23 Q. Okay. You didn't add any pills to it  
 24 before you sent it to him?  
 25 A. Oh, no.

14 (Pages 53 to 56)

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<p style="text-align: right;">Page 57</p> <p>1 Q. Okay. You'll find out why I'm asking 2 because I'm puzzled about the number. 3 So the RN from Dr. Mathew calls you back and 4 says, "Don't take that anymore." 5 And what else? 6 A. "Don't take that, and then we would do a 7 regular follow-up." And I cannot remember when the 8 follow-up was. I was supposed to call them back if 9 I continued to have the symptoms or if the symptoms 10 got better, and I did. 11 Q. So basically the instruction you got 12 from his nurse was "Just stop taking those"? 13 A. "Just stop taking any digitalis 14 product." 15 Q. Okay. Had you gotten the Lanoxin yet 16 from Caremark? 17 A. I believe I got it the next day. 18 Q. And did you take any of that? 19 A. No, because he had already told me not 20 to. 21 Q. Okay. So the next time that you took 22 any digoxin/digitalis-type medication was when? 23 A. I haven't. 24 Q. Not since then? 25 A. Correct.</p>	<p style="text-align: right;">Page 59</p> <p>1 A. No, but he defers to the cardiologist. 2 Q. Okay. All right. So the doctor who 3 told you that the chest pains were caused by the 4 Digitek was Dr. Mathew? 5 A. Correct. 6 Q. How about the shortness of breath, the 7 fatigue, the sleepiness, the irregular rhythm? Has 8 any doctor told you now what caused that? 9 A. Only Dr. Mathew. 10 Q. Okay. He said chest pains were caused 11 by Digitek? 12 A. No, the symptoms because he had known 13 the symptoms. That's the reason he did the cardiac 14 cath. 15 Q. So -- 16 A. So it wasn't just chest pain, no. That 17 was the whole array of symptoms. 18 Q. Okay. All right. So what was your 19 understanding as to why you were prescribed a 20 digitalis-type product back in February of '06? 21 What was it for? 22 A. Digitalis is used with cardiac patients 23 frequently for -- it slows the heart, which is what 24 it's supposed to do. It also makes it beat faster, 25 and cardiac patients usually need that. I don't</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. Okay. Have your doctors given you any 2 substitute medication to do what the digitalis-type 3 product was supposed to do for your heart? 4 A. I'm on Toprol. That's the only thing 5 that's close to it. 6 Q. And you were already on that before? 7 A. I was. 8 Q. Okay. Okay. And have you talked to 9 Dr. Mathew further after that about what was causing 10 chest pains? 11 A. Correct, I did. 12 Q. What did he say? 13 A. I asked him directly. I said, "We're 14 all aware of the recall, and that was probably the 15 basis for my symptoms." That was the question, and 16 he said, "Yes." 17 Q. Okay. Did you talk to any other medical 18 practitioners about what was causing -- 19 A. I also told my primary care doctor. 20 Q. That's Johnson? 21 A. Yes. 22 Q. What did he say? 23 A. He said, "What did Dr. Mathew say?" 24 Q. Okay. So Johnson didn't have his own 25 opinion?</p>	<p style="text-align: right;">Page 60</p> <p>1 know too many cardiac patients that weren't placed 2 on that. 3 Q. Some type of digitalis product? 4 A. Correct. 5 Q. Have you -- let's back up. 6 Until October of '07 -- from February of '06 to 7 October of '07, you were getting the benefit of the 8 product you were taking, the Digitek? 9 A. I would say yes. 10 Q. Okay. And from October of '07 until May 11 of '08, except for the hospital, you were still 12 taking that medication? 13 A. Correct. 14 Q. Was it still giving you the benefit that 15 you needed for your heart during that period of 16 time? 17 A. I don't know. 18 Q. Okay. 19 A. I mean, I can't say. Considering the 20 symptoms, I would say not. 21 Q. When you first were prescribed Digitek, 22 did your doctor explain to you, "If you don't take 23 this, here is what your heart could do"? 24 A. No, he didn't. 25 Q. Did you have some understanding --</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">Page 61</p> <p>1 A. Definitely.      2 Q. -- what your heart could do? What did      3 you understand your heart could do if you didn't      4 take it?      5 A. It would not be nearly as efficient.      6 You know, if it's beating slower, if it's beating      7 stronger, that's got to be better for profusion of      8 your whole body, including profusion of the heart      9 itself. I'm very much aware of digitalis and what      10 it did, so...      11 Q. I guess what I'm trying to understand      12 is, if you have a heart condition such as you have      13 and you are not taking a medication like this,      14 ultimately you could -- you could die from lack of      15 some ability to regulate the rhythm and the      16 regularity of your heartbeat, right?      17 A. That's variable with different patients.      18 I'm not a cardiologist to be able to tell you that,      19 but obviously I'm doing all right without it and      20 probably better than I would with it at this point.      21 He didn't seem to think it was a problem. He wanted      22 to just watch, and I've done well.      23 Q. So I might ask my doctor, under these      24 circumstances that you described to me, "Why did you      25 put me on that in the first place? If Toprol is</p>	<p style="text-align: right;">Page 63</p> <p>1 breath, sleepiness, irregular rhythm?      2 A. No.      3 Q. So all of those symptoms stopped when?      4 A. When I stopped the Digitek.      5 Q. And was that in May of '08?      6 A. Correct.      7 Q. And did they stop immediately when you      8 stopped taking them?      9 A. Within three to four days.      10 Q. Okay. Okay. Are you making a wage loss      11 claim because of having taken Digitek?      12 A. I did miss a lot of my work. I had to      13 take my vacation -- I mean, my sick time. That was      14 about three weeks: a week in the hospital and two      15 weeks after that.      16 Q. Okay. But are you making a claim in      17 this lawsuit for money damages for losing wages?      18 MR. JONES: Yes, she is.      19 MS. CRISWELL: I'm not asking you what      20 you think she's claiming.      21 MR. JONES: We filed a lawsuit.      22 MS. CRISWELL: I'm asking her what she's      23 claiming.      24 A. The way I understand it, yes.      25 Q. Okay. Let me -- have you seen any</p>
<p style="text-align: right;">Page 62</p> <p>1 doing the job, why you did put me on a digitalis      2 product at all?" Did you ever ask the doctors that?      3 A. No.      4 Q. Did they ever offer an explanation for      5 that?      6 A. No.      7 Q. Okay. And just to try to tie this up,      8 the risk of not taking the digitalis product that      9 you were prescribed, do you have an understanding      10 that one of the risks of not taking it might have      11 been your heart would fail to function?      12 A. I've never been in heart failure, and      13 that is one of the reasons why it's given. But I      14 didn't worry about that. If Dr. Mathew was all      15 right with it, I was all right with it. He knows      16 better than I do about the function of digitalis.      17 Q. Okay. And Toprol, do you know what      18 family of medicines that is in?      19 A. Toprol is a betablocker, and don't ask      20 me exactly what that means, because I don't know.      21 But I do know that it affects the heart in a way      22 sort of similar to digitalis, but in a different      23 way.      24 Q. Are you having any -- as we're sitting      25 here today, are you having any of that shortness of</p>	<p style="text-align: right;">Page 64</p> <p>1 psychologists or psychiatrists for any of these      2 problems that you associate with having taken      3 Digitek?      4 A. No. I do see a psychiatrist every day      5 because I work with one, but, no.      6 Q. Okay. All right. Have you taken any      7 medication for anxiety or stress or fears or      8 anything that you may attribute to having taken      9 Digitek?      10 A. No. Routinely I take Zoloft, and I have      11 for years, but that's all. It was before, and it      12 continues now.      13 Q. Just real quickly on the wage loss since      14 we were just talking about that, Ms. Ard, I have --      15 we've marked these -- I sort of marked these      16 backwards, but this is Exhibit 2. This is a fact      17 sheet that was submitted, as I understand it, to      18 identify your claims in this case.      19 Have you ever seen that?      20 A. Yes, I have.      21 Q. When is the first time that you saw      22 that?      23 A. Gosh, I can't remember when I first saw      24 it because it had been amended too.      25 Q. Yeah, I think page 18 has a signature on</p>

16 (Pages 61 to 64)

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1 it, if you maybe could flip to that real quick.  
 2 A. Okay. July.  
 3 Q. Okay. So that's your signature?  
 4 A. Yes.  
 5 Q. And you signed this document, this part  
 6 of it at least, July 1 of '09?  
 7 A. Correct.  
 8 Q. Did you fill this out?  
 9 A. Yes.  
 10 Q. And how did you fill it out?  
 11 A. I filled it out with a representative  
 12 from Dr. -- from Mr. Jones's office --  
 13 Q. Okay.  
 14 A. -- and just answered the questions.  
 15 Q. Okay. Were there any materials that you  
 16 referred to in order to answer the question, or was  
 17 it just as your recollection provided?  
 18 A. I did have some information on -- for as  
 19 specific dates as I could get, but the rest of it  
 20 was mostly by memory.  
 21 Q. So it sounds like you had some things to  
 22 refer to as you were filling this out?  
 23 A. Correct.  
 24 Q. What do you remember about what you were  
 25 looking at?

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1 A. We had some of the receipts for the  
 2 Digitek, you know, when I got them and when I got a  
 3 new prescription, things like that -- and then to be  
 4 sure that I had my dates right as far as surgeries  
 5 and that sort of thing.  
 6 Q. And your recollection is the  
 7 prescriptions for that whole period of time we've  
 8 been talking about, they all said, "Digitek," not  
 9 some other word?  
 10 A. Yes.  
 11 Q. They didn't say, "digoxin"?
 12 A. No.  
 13 Q. If we look at page five of Exhibit 2 of  
 14 the fact sheet --  
 15 A. Okay.  
 16 Q. -- do you see question five there?  
 17 MR. JONES: Well, you can answer the  
 18 question.  
 19 BY MS. CRISWELL:  
 20 Q. Do you see the question?  
 21 A. Yes.  
 22 Q. Do you see the answer?  
 23 A. Yes, I do.  
 24 Q. Was that your answer when you signed  
 25 this in July of '09?

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1 A. If that's what it says, that's what I  
 2 answered.  
 3 MR. JONES: We can amend it. We will  
 4 amend it.  
 5 THE WITNESS: Okay.  
 6 BY MS. CRISWELL:  
 7 Q. Let me ask and follow up, then.  
 8 Are you saying now that you would make a loss  
 9 of earnings claim?  
 10 A. Right. "If yes, state the annual gross  
 11 income," and in the last five years, I mean, it  
 12 wasn't a gross income annually. It was just the  
 13 weeks. So I answered the question in the way I  
 14 thought it should be answered.  
 15 Q. The question is, "Are you making a claim  
 16 for lost wages or lost earning capacity," right?  
 17 A. Right.  
 18 Q. And the answer that you provided in July  
 19 of '09 was "no."  
 20 A. Correct.  
 21 Q. So now you want to make a claim for loss  
 22 of earnings.  
 23 When did you decide to make a claim for lost  
 24 earnings in this case?  
 25 MR. JONES: Let me interject here

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1 because I think that this is probably the result of  
 2 a mistake on behalf of my associate in making that  
 3 answer that way. Ms. Ard has testified that she  
 4 missed work, and I told you that we'll amend the  
 5 fact sheet. So you can ask her questions about it,  
 6 but --  
 7 MS. CRISWELL: Thank you.  
 8 MR. JONES: I object to the extent that  
 9 you're somehow trying to suggest that she's done  
 10 something wrong by answering "no" on the fact sheet.  
 11 We'll amend it.  
 12 BY MS. CRISWELL:  
 13 Q. Let's back up.  
 14 Before you signed this document on July 1 of  
 15 this year, Ms. Ard, did you read it?  
 16 A. Yes.  
 17 Q. Okay. Did you make any changes to that  
 18 answer when you read it?  
 19 A. No.  
 20 Q. Okay. Because if you had made a change,  
 21 it would have been changed, right?  
 22 A. Right.  
 23 Q. Okay. Did you tell anybody on July 1  
 24 when you signed this document that there was  
 25 anything in here that needed to be corrected?

17 (Pages 65 to 68)

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1 A. No.  
 2 Q. Okay. Was it your intention, as of  
 3 July 1, not to make a claim for lost earnings?  
 4 A. Yes, because I didn't think, because of  
 5 the way it's stated...  
 6 Q. What is it about the way it's stated  
 7 that --  
 8 A. Well, it sounds more like for someone  
 9 who has been injured and they are no longer able to  
 10 work. That's how I took that.  
 11 Q. Okay. Did you ask anybody to clarify  
 12 what this meant?  
 13 A. No.  
 14 Q. All right. So what is the amount of  
 15 your lost wages, lost earnings claim?  
 16 A. It would be three weeks of sick time,  
 17 and that would be 120 hours.  
 18 Q. So dollar-wise, what are we talking  
 19 about?  
 20 A. Take that times \$42.  
 21 Q. Whatever that is?  
 22 A. Whatever that is.  
 23 Q. Okay. And during what period of time  
 24 were the three weeks?  
 25 A. They were during that week I was in the

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1 A. Co-pays, until this year, they've all  
 2 been \$20 every time I went to the doctor. Then  
 3 there were other -- any time you go and you have a  
 4 treadmill or something, it doesn't all get paid for.  
 5 Q. Well, what number of doctor visits are  
 6 you claiming you would not have had but  
 7 for the Digitek?  
 8 A. The one I had in January would have been  
 9 our scheduled one. That would have been a \$20 one,  
 10 but then the one with Dr. Mathew after that.  
 11 Q. Okay. The one with Dr. Johnson, you  
 12 would have been doing anyway?  
 13 A. Correct.  
 14 Q. So we're talking about one co-pay for  
 15 one visit with Dr. Mathew?  
 16 A. Yes.  
 17 Q. Any other monetary damages that you are  
 18 claiming in this case?  
 19 A. I don't remember exactly how much we had  
 20 to pay out for hospitalization and testing, but I do  
 21 not remember that number. It's here somewhere, but  
 22 I don't remember the number.  
 23 Q. How would you figure out what that  
 24 number is if you wanted to?  
 25 A. We would look at our explanation of

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1 hospital and two weeks thereafter.  
 2 Q. Okay. This was the hospital, then  
 3 transferred to Jewish Hospital?  
 4 A. Yes.  
 5 Q. Okay. Are there any other monetary  
 6 losses that you personally are claiming in this  
 7 lawsuit?  
 8 A. There's doctors' co-pays, our deductible  
 9 for the hospital admissions, anything that wasn't  
 10 covered by my insurance.  
 11 Q. Okay. What was the deductible?  
 12 A. I can't remember what our deductible is.  
 13 It changes from year to year, and I can't remember  
 14 at this point what it was.  
 15 Q. Can you give me a rough approximation?  
 16 A. \$300.  
 17 Q. Okay.  
 18 A. That's a guess.  
 19 Q. Okay. Total guess, or does it have some  
 20 basis in reality?  
 21 A. Well, I know at least one year, that's  
 22 what it was, and I don't remember which year that  
 23 was.  
 24 Q. And how about co-pays? What is your  
 25 claim for co-pays?

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1 benefits.  
 2 Q. Do you keep those?  
 3 A. Yes.  
 4 Q. Okay. How far back do you keep those?  
 5 A. Way back. My husband is meticulous.  
 6 Q. Okay. All right. So you would have the  
 7 ability to reconstruct that?  
 8 A. Correct.  
 9 Q. Okay. Any other out-of-pocket -- call  
 10 them out-of-pocket monetary damages that you're  
 11 seeking?  
 12 A. I can't think of any right this minute.  
 13 Q. All right. Are you seeking any -- we'll  
 14 circle back around to this in a minute. Let me talk  
 15 to you about the 117 tablets. Okay?  
 16 If you would, look at page six of Exhibit 2.  
 17 Do you see question six, which talks about packaging  
 18 or tablets? Do you see that?  
 19 A. Yes.  
 20 Q. So the packaging that your attorney has  
 21 would be that one plastic bottle -- clear plastic  
 22 bottle with a screw top --  
 23 A. Uh-huh.  
 24 Q. -- screw top, white childproof lid,  
 25 right?

18 (Pages 69 to 72)

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1 A. Right.  
 2 Q. Any other packaging that you're aware of  
 3 that your attorney has --  
 4 A. No.  
 5 Q. -- that would have related to  
 6 medications you took?  
 7 A. No.  
 8 Q. Now, you see 6B. It says, "117 by  
 9 counsel's count."  
 10 Do you see that?  
 11 A. Yes, I do.  
 12 Q. So do you know where the 117 tablets  
 13 came from?  
 14 A. I'm assuming they were in the bottle  
 15 that I gave him.  
 16 Q. Well, if the maximum prescription that  
 17 you would have ever had would have been 90 -- and  
 18 you took some of them --  
 19 A. Uh-huh.  
 20 Q. -- yes? How do you get 117?  
 21 A. I don't have any idea.  
 22 Q. Okay. All right. The bottle you gave  
 23 his office would have had something less than 90 in  
 24 it?  
 25 A. Yes.

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1 attachment that tells me that.  
 2 A. If you're asking me, do I remember the  
 3 lot number, no.  
 4 Q. There's an expiration date in 7B of  
 5 February 15 of '09.  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. Do you know if that expiration date is  
 9 on the label for the one bottle that you gave your  
 10 lawyer?  
 11 A. I do not know.  
 12 Q. Have you ever communicated with any of  
 13 the defendants in this case?  
 14 A. No.  
 15 Q. Has your husband?  
 16 A. No.  
 17 Q. Okay. Now, I'm looking at -- now I'm  
 18 looking at question nine, and the medication that's  
 19 identified here -- it says, "After surgery and  
 20 before Digitek, possibly February '06" -- it says,  
 21 "digoxin."  
 22 Do you see that?  
 23 A. I do.  
 24 Q. What was that for?  
 25 A. That was when I was in the hospital.

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1 Q. Okay. To your knowledge, has anybody  
 2 tested any of those tablets?  
 3 A. Not to my knowledge, no.  
 4 Q. Okay. The lot numbers -- the lot number  
 5 or numbers that were on the tablets or with the  
 6 tablets that are in that one bottle --  
 7 A. Uh-huh.  
 8 Q. -- do you recall in that letter that you  
 9 got from Caremark whether there were lot numbers  
 10 identified?  
 11 A. I do not recall there was a lot number.  
 12 Q. Your recollection is there was not?  
 13 A. There was not.  
 14 Q. Okay. Is there a lot number on the  
 15 label of the bottle that you gave your lawyer with  
 16 the remaining tablets inside?  
 17 A. I don't know. I'm not sure.  
 18 Q. Okay. So the question -- I'm looking at  
 19 page seven now, where it says 7A: "Do you know the  
 20 lot numbers for any of the Digitek that you  
 21 received," and it says, "yes."  
 22 Do you know if that's accurate?  
 23 A. It says, "See attached records." I'm  
 24 assuming that's where the number is.  
 25 Q. Unfortunately I don't have any

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1 Q. For what?  
 2 A. I mean, during the time I was in the  
 3 hospital, I was getting the digoxin, Lanoxin brand.  
 4 That's why it's written that way.  
 5 Q. So it was really Lanoxin, not digoxin?  
 6 It didn't say, "digoxin" on it; it said, "Lanoxin"?  
 7 A. That's the brand that the hospital uses,  
 8 Lanoxin brand.  
 9 Q. And this is Jewish Hospital?  
 10 A. No, this is Owensboro Medical Health  
 11 System.  
 12 Q. Okay. I apologize for not knowing your  
 13 medical history as well as you do, but when was that  
 14 hospitalization?  
 15 A. That was February 18th of 2006.  
 16 Q. Okay. And you didn't return the  
 17 Digitek. Why did you not return it?  
 18 A. If I recall, they didn't even ask that I  
 19 return it. So I wasn't going to send it back. It  
 20 wouldn't make any difference.  
 21 Q. So your recollection is whatever you got  
 22 from Caremark didn't say anything?  
 23 A. Correct.  
 24 Q. Okay.  
 25 A. Only that they were going to be sending

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1 me a replacement.  
 2 Q. Have you done any research on  
 3 digitalis-type medications?  
 4 A. I did research on the computer for  
 5 Digitek.  
 6 Q. You did?  
 7 A. Once I got the letter, I did.  
 8 Q. Okay. And where did you go and what did  
 9 you find?  
 10 A. I went and the first thing I looked up  
 11 was FDA to see what the actual recall stated.  
 12 Q. Do you remember what that said?  
 13 A. It said something to the effect that the  
 14 dosage would have been higher. The tablets were  
 15 approximately twice what they should have been.  
 16 That's vaguely what I remember.  
 17 Q. Did they say twice the thickness of what  
 18 they should have been?  
 19 A. It might have. I don't remember.  
 20 Q. Did you ever, to your knowledge, see in  
 21 any of the pill bottles of Digitek any tablet that  
 22 looked twice as thick as any of the tablets you had  
 23 taken?  
 24 A. No.  
 25 Q. Okay. So you looked at the FDA website.

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1 Did you print anything off that you found on  
 2 there?  
 3 A. I printed the FDA off. I also went on  
 4 the pharmaceutical company's website to see what  
 5 they had to say about it.  
 6 Q. Which company's?  
 7 A. The Actavis -- Actavis.  
 8 Q. Okay.  
 9 A. Did I says it right?  
 10 Q. Yeah.  
 11 A. Okay.  
 12 Q. Anybody else's website?  
 13 A. No.  
 14 Q. What do you remember about what  
 15 Actavis's website said?  
 16 A. It basically said the same thing that  
 17 the FDA said. It wasn't new information.  
 18 Q. Okay.  
 19 A. I will tell you the main reason I went  
 20 on was that was right after some recall on  
 21 medications for things being made in China. I  
 22 wanted to see where my medication was made, and it  
 23 was made in New Jersey.  
 24 Q. Did you print off what was on the  
 25 Actavis website as well?

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1 A. Yes.  
 2 Q. Where are those?  
 3 A. I have no clue.  
 4 Q. Do you think you still have them?  
 5 A. It's possible, but I don't know where  
 6 they might be.  
 7 Q. Okay. You may or may not have them; you  
 8 don't know at this point?  
 9 A. I don't know at this point.  
 10 Q. Did you do any other research? And I'm  
 11 not limiting myself to just going on the computer.  
 12 Did you do any other research on Digitek or  
 13 digitalis products or the companies that manufacture  
 14 them?  
 15 A. No.  
 16 Q. The first time you had an abnormal heart  
 17 rhythm in your life was when?  
 18 A. Oh, gosh, when I was in the -- if we're  
 19 talking about -- you're talking about abnormal, not  
 20 the normal PVCs that normal people have, it was  
 21 after surgery.  
 22 Q. Which was?  
 23 A. February 18th, 2006.  
 24 Q. Okay.  
 25 A. That's not unusual after surgery.

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1 Q. That's not unusual to begin to have  
 2 those after that type of surgery?  
 3 A. Right.  
 4 Q. Okay.  
 5 A. When you mess with the heart, it  
 6 irritates the muscle, and it complains about it.  
 7 Q. Page nine of your fact sheet, one of the  
 8 boxes that's checked "yes" is "Depression, Anxiety,  
 9 Schizophrenia, Bipolar Disorder."  
 10 Do you have any of those?  
 11 A. I have depression.  
 12 Q. Okay. Do you still?  
 13 A. Yes.  
 14 Q. And what is that caused by?  
 15 A. It's familial. It runs in my family.  
 16 Q. Okay.  
 17 A. There's not any --  
 18 Q. Do you take any medication for that?  
 19 A. Yeah, Zoloft, what I mentioned earlier.  
 20 Q. So that has nothing to do with Digitek?  
 21 A. No.  
 22 Q. Okay. And the nitroglycerine that you  
 23 took at some point, was that in '08 that you took  
 24 that for the first time?  
 25 A. I believe so. I don't think I have -- I

20 (Pages 77 to 80)

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1 mean, I always carry it with me, but I don't think  
 2 I've had a reason to take it before then.  
 3 Q. You've carried it with you since then?  
 4 A. Since my open heart surgery.  
 5 Q. Okay. And the first time you ever took  
 6 it, then, was when?  
 7 A. In '08, I believe.  
 8 Q. Okay. And do you remember when in '08?  
 9 A. The day that I ended up talking with  
 10 Dr. Mathew, which would have been May.  
 11 Q. After the Holter monitor?  
 12 A. Uh-huh.  
 13 Q. Yes?  
 14 A. Yes.  
 15 Q. Your two daughters, Amy and Gina, and  
 16 your husband are listed as fact witnesses. This is  
 17 on page 16 of the fact sheet.  
 18 You live with your husband --  
 19 A. Correct.  
 20 Q. -- right?  
 21 Your daughters, I presume live, in their own  
 22 homes?  
 23 A. Correct.  
 24 Q. What would the two daughters be able to  
 25 provide as far as information about your health

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1 condition?  
 2 A. The main -- they were with me during  
 3 my -- when I had open heart surgery. I had a  
 4 cardiac cath and went directly to open heart. They  
 5 were with me for that. They have been with me when  
 6 my husband couldn't -- visit to Dr. Mathew. My  
 7 youngest daughter, Gina, went with us over here to  
 8 Louisville for that treatment.  
 9 Q. Okay. During the time that you were  
 10 taking Digitek, did you ever take more than one  
 11 tablet at a time?  
 12 A. No.  
 13 Q. Did you ever miss a day?  
 14 A. Yes.  
 15 Q. Okay. And what would you do if you  
 16 missed -- you know, in the morning, you just didn't  
 17 take the pill?  
 18 A. Take it the next day.  
 19 Q. You never took it later in the same day?  
 20 A. No.  
 21 Q. Why not?  
 22 A. Because I'm a nurse and I know better.  
 23 Q. Okay. Have you ever been on any other  
 24 medications in your life that were subject to a  
 25 recall?

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1 A. No.  
 2 Q. All right. A few more questions on the  
 3 fact sheet: If you keep on going down through the  
 4 fact sheet, after page 18, there's no page numbers  
 5 on the bottom.  
 6 A. Okay.  
 7 Q. But it begins with -- there's some more  
 8 Roman numerals. If you could look at Roman numeral  
 9 five, which is "Additional" -- it's about six pages  
 10 in from the bottom of the package.  
 11 A. Okay. Would that be 4B?  
 12 Q. It's Roman numeral five.  
 13 A. "Additional Medications"?
 14 Q. It says, "Additional Medications."  
 15 A. Okay.  
 16 Q. Do you remember providing information  
 17 that was used to fill this chart out? And it goes  
 18 on to the next page.  
 19 A. Yes.  
 20 Q. Okay. Do you recall when you provided  
 21 that additional information?  
 22 A. That would have been -- that would have  
 23 been in July.  
 24 Q. Would it have been before you signed the  
 25 fact sheet?

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1 A. I don't remember.  
 2 Q. Where did you get the information to use  
 3 to fill in the additional medications on the chart?  
 4 A. From my -- what I usually take. I mean,  
 5 I know what I take.  
 6 Q. Did you have that index card available,  
 7 and that's what you used?  
 8 A. Yes.  
 9 Q. Okay. In that chart, the dates of use  
 10 are not filled out, and the number of the items  
 11 starting on the second page of the chart, there's  
 12 no -- there's no fill-in for the dosage.  
 13 Would you be able to fill in the dosages and  
 14 the dates of use for each of these?  
 15 A. Yes.  
 16 Q. And would you have the records with you  
 17 to do that?  
 18 A. Yes.  
 19 MS. CRISWELL: Okay. Counsel, if we  
 20 could get your help with getting that chart  
 21 completed, that would be great because it sounds  
 22 like your client has the information to do that. So  
 23 it sounds like a reasonable request.  
 24 MR. JONES: Sure.  
 25 BY MS. CRISWELL:

21 (Pages 81 to 84)

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1 Q. The Toprol, T-O-P-E-R-A-L, that's how  
2 that's spelled [sic]?  
3 A. Yes.  
4 Q. Do you remember when you first started  
5 using that?  
6 A. I'm reasonably sure it was right after  
7 my surgery.  
8 Q. This would be the open heart surgery --  
9 A. Correct.  
10 Q. -- which was in --  
11 A. '06.  
12 Q. -- February of '06?  
13 A. Correct. I would have to go back and  
14 look, but that's when I think it was.  
15 Q. Okay.  
16 A. Now, it was changed a little bit to  
37.5.  
18 Q. Do you recall when that change took  
19 place?  
20 A. I do not.  
21 Q. Would you have records at home that  
22 would help you figure that out?  
23 A. I probably -- I'm not sure, but --  
24 Q. Okay. Dr. Brien -- no, Dr. O'Brien --  
25 A. Yes.

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1 in a full week's work at the hospital?  
2 A. Yes.  
3 Q. Do you have any plans to retire?  
4 A. Yes.  
5 Q. When would that be?  
6 A. February.  
7 Q. Oh, very nice.  
8 A. Uh-huh.  
9 Q. Use up that vacation.  
10 A. Yes.  
11 MS. CRISWELL: Okay. How about we take  
12 a five-minute break and everybody stretch, and then  
13 we'll get regrouped and wrap this up.  
14 (A BRIEF RECESS WAS TAKEN.)  
15 BY MS. CRISWELL:  
16 Q. Okay. So let's see here. When you --  
17 being a nurse -- and I expect you're the sort of  
18 person that reads package inserts on medications --  
19 A. Yes.  
20 Q. -- and understands what she's looking  
21 at?  
22 And when you first got Digitek, the very first  
23 time back in '06, I assume you read the package  
24 insert that came with it?  
25 A. No.

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1 Q. -- O'Brien is what kind of a doctor?  
2 A. He's a pulmonologist.  
3 Q. And you've seen him yearly for the last  
4 eight years?  
5 A. Correct.  
6 Q. What do you see him for?  
7 A. I have sleep apnea.  
8 Q. Okay. And did that start eight years  
9 ago?  
10 A. Actually, it started earlier than that,  
11 but I switched doctors. So previous to that, it was  
12 Dr. Lombard for about two years before that.  
13 Q. Do you take anything for sleep apnea?  
14 A. I use a CPAP machine.  
15 Q. And you're still working full time?  
16 A. Yes.  
17 Q. And full time for you is how many hours  
18 a week, probably more than 40, I bet?  
19 A. I would say yes. Actually, I'm back to  
20 about four days a week now. I have so much vacation  
21 time I have to take.  
22 Q. Oh, very good.  
23 A. I don't know if that's good or bad. If  
24 you have so much vacation time, that's the bad part.  
25 Q. Yeah. Okay. But you're still working

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1 Q. No?  
2 A. I didn't because one of my projects when  
3 I was a baby nurse was that I wrote a paper on  
4 digitalis products.  
5 Q. You did?  
6 A. I did. So I didn't feel like I needed  
7 it.  
8 Q. Okay. And did you publish that paper?  
9 A. No.  
10 Q. Who did you write it for?  
11 A. St. Mary's Hospital School of Nursing.  
12 Q. Okay. So when you were a nurse -- a  
13 nursing student --  
14 A. Yes.  
15 Q. -- you wrote a paper on the very type of  
16 medicine that we're talking about here?  
17 A. Yes.  
18 Q. Do you have a copy that?  
19 A. No. I graduated in 1965. No.  
20 Q. Okay. Well, I don't know. You know,  
21 you may --  
22 A. I do have a few things from back then,  
23 but, no.  
24 Q. Okay. Do you know of anybody who might  
25 have a copy of that article?

22 (Pages 85 to 88)

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1 A. No.  
 2 Q. Was it published at St. Mary's in any  
 3 kind of a magazine --  
 4 A. No.  
 5 Q. -- or a newspaper?  
 6 A. No. It was used in our pharmacology  
 7 classroom.  
 8 Q. Okay. What do you -- based your  
 9 research, what were the identified risks of  
 10 digitalis-type medication?  
 11 A. Digitalis can cause fatigue, sleepiness.  
 12 In fact years and years ago, ancient times, they  
 13 gave it for sleep because it made people sleepy  
 14 because it slowed their heart down. It strengthens  
 15 the heart. It slows the heart in a good way, not a  
 16 bad way. It can cause heart irregularity at toxic  
 17 levels and cause -- and exacerbate all those other  
 18 things I said, fatigue, et cetera.  
 19 Q. Okay. So when you first started  
 20 experiencing more fatigue than you were ever used to  
 21 having and the shortness of the breath and the  
 22 irregular heart rhythm and the sleepiness, did you  
 23 make the connection?  
 24 A. No, I did not.  
 25 Q. Did it cross your mind at all that it

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1 might have anything to do with the medication?  
 2 A. No.  
 3 Q. Okay.  
 4 A. I trusted that my medications were going  
 5 to be what they were supposed to be and the dosage  
 6 that they were supposed to be, and I don't ever take  
 7 more than I should ever.  
 8 Q. Okay. Did you make the connection with  
 9 your understanding, your background as a nurse, and  
 10 having researched this exact type of medication in  
 11 the past -- did you make the connection that there  
 12 might be some connection there beginning with the  
 13 Digitek prescription in October of '07, which you  
 14 said, you know, coincided with the increase in  
 15 symptoms?  
 16 A. No, I did not.  
 17 Q. Okay. Were you concerned at all the  
 18 first time that you were prescribed Digitek --  
 19 concerned about taking it?  
 20 A. No, I just noticed that it was a generic  
 21 rather than the name brand.  
 22 Q. Digitek is a generic?  
 23 A. Well, it's not the Lanoxin name brand,  
 24 which is what I had been taking.  
 25 Q. So let me understand. In your

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1 understanding, the name Lanoxin is a name brand?  
 2 A. Correct.  
 3 Q. And the name Digitek is a generic for  
 4 Lanoxin?  
 5 A. For digitalis.  
 6 Q. Okay. What is digoxin?  
 7 A. A form of digitalis. Digitalis is the  
 8 base -- digoxin is the base. Lanoxin is the  
 9 medication.  
 10 Q. Okay. And you think Digitek is the  
 11 generic for --  
 12 A. Well, it is not the Lanoxin brand.  
 13 Q. Okay. Is Digitek a brand or a generic?  
 14 A. (Indicating).  
 15 Q. You don't know?  
 16 A. I don't know. I'm assuming it was -- a  
 17 lot of the medications that are generic have their  
 18 own name, venlafaxine for Effexor and things like  
 19 that.  
 20 Q. Okay. Are you sure that the  
 21 digitalis-type medication that you began getting in  
 22 February of '06 was designated Digitek and not  
 23 digoxin?  
 24 A. It was Digitek.  
 25 Q. You're sure?

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1 A. Yes.  
 2 Q. Okay. Do you have pharmacy records or  
 3 proof of -- you know, explanation of benefits  
 4 paperwork or anything that would confirm that?  
 5 A. Yes.  
 6 Q. Okay. At home?  
 7 A. We have -- from Caremark, we got the  
 8 information back. We could only go back a year, but  
 9 it's always been Digitek.  
 10 Q. So it's your recollection that there is  
 11 paperwork that confirms that is a specific  
 12 designation given since February of '06 for what you  
 13 were getting?  
 14 A. That's right.  
 15 Q. Okay. Do you know anybody else now who  
 16 takes a digitalis-type product?  
 17 A. A couple of my patients do. They have  
 18 them listed as their medicines.  
 19 Q. Okay. Do either of them take Digitek?  
 20 A. One does.  
 21 Q. Okay. Still?  
 22 A. I understand, yes.  
 23 Q. Okay. And the other one, do you know  
 24 what she takes?  
 25 A. No, I don't remember.

23 (Pages 89 to 92)

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1 Q. Okay. So you don't know if it's Lanoxin  
2 or something else?  
3 A. I do not.  
4 Q. Okay. Have you ever known anybody  
5 besides yourself and this one other patient that you  
6 just told me about who has taken Digitek?  
7 A. There were several of my patients that  
8 had taken Digitek, and when I reviewed their  
9 medications and I asked, "Are you still on Digitek,"  
10 they said, no, that they had been switched to -- and  
11 don't ask me what they had been switched to, but  
12 they had switched to something else.  
13 Q. Was this after the recall letter?  
14 A. Yes.  
15 Q. We'll just call it the recall letter.  
16 A. Yeah.  
17 Q. So you pointed it out to them?  
18 A. No -- well, I was just going over their  
19 medicine. I ask them each time they come in, "Are  
20 you still on your -- are you still on this? Are you  
21 still on that?"  
22 Q. Okay. Basically you're going through  
23 the medicine just confirming, "Are you still taking  
24 this or not?"  
25 A. Correct.

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1 did a blood test and determined that you had toxic  
2 levels of a digoxin/Digitek substance in your blood?  
3 A. I do not know.  
4 Q. Do you know if they took a blood test  
5 that would show that one way or the other?  
6 A. I don't know.  
7 Q. Did any of your doctors ever say you had  
8 digoxin toxicity?  
9 A. Not according to blood tests; by  
10 symptoms, yes.  
11 Q. By symptoms.  
12 Okay. Did they use that phrase?  
13 A. Yes.  
14 Q. And who would that have been?  
15 A. Dr. Mathew.  
16 Q. Okay. Anybody else?  
17 A. No.  
18 Q. When you -- I'm not sure how this works  
19 when you get pharmaceuticals through the mail, but  
20 when you were prescribed Digitek by your doctor  
21 beginning in February of '06, did you sign any kind  
22 of a consent form, indicating "I understand the  
23 risks of this, and I'm okay with taking this  
24 medication" --  
25 A. No.

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1 Q. Okay. Before the patient that you --  
2 let's back up.  
3 The patients that you've told me about who at  
4 one point in time were taking Digitek, did any of  
5 them ever report to you that they were having any  
6 side effects?  
7 A. No.  
8 Q. And since you got the recall letter,  
9 there's just one patient who is still taking  
10 Digitek?  
11 A. That I know of.  
12 Q. That you know of?  
13 A. Yes.  
14 Q. Do you know anybody else: friends,  
15 family, relatives?  
16 A. No, nobody.  
17 Q. Not the grocer, anybody?  
18 A. Nobody.  
19 Q. Okay. The lady who, as far as you know,  
20 is still taking Digitek, has she told you she's had  
21 any side effects from that?  
22 A. No.  
23 Q. Have you asked?  
24 A. No.  
25 Q. Do you know if any of your doctors ever

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1 -- anything like that?  
2 A. No.  
3 Q. Okay. Did you ever get any samples of  
4 Digitek?  
5 A. No.  
6 Q. How about Lanoxin? Did you get samples?  
7 A. No.  
8 Q. The only time you had that really was in  
9 the hospital?  
10 A. Correct.  
11 Q. And the Lanoxin that you got from  
12 Caremark after the recall letter, where are those  
13 tablets?  
14 A. I don't have them anymore since he took  
15 me off of them.  
16 Q. Do you believe you discarded those?  
17 A. Yes.  
18 Q. Was that another 90-day supply?  
19 A. I believe it was.  
20 Q. Okay. Did you look at those tablets to  
21 see if they looked any different from the Digitek,  
22 by any chance?  
23 A. No, I didn't even take them out and look  
24 at them because he had already told me to stop it.  
25 So...

24 (Pages 93 to 96)

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1 Q. Do you know anybody who was taking  
 2 Digitek and actually sent their unused tablets back  
 3 for a refund?

4 A. No.

5 Q. Okay. And your recollection is you  
 6 never received a directive to return anything for a  
 7 refund; is that right?

8 A. Not that I recall, right.

9 Q. When you first started taking Digitek in  
 10 '06, were there symptoms you discussed with your  
 11 doctor, where if you started to experience those,  
 12 you were supposed to call him and tell him? Do you  
 13 remember any discussion like that?

14 A. No.

15 Q. Does that mean you didn't have that  
 16 discussion or you may not remember?

17 A. I don't recall that we had that  
 18 discussion. The main discussion was, "If you start  
 19 having any chest pain, you let me know."

20 Q. Not shortness of breath, not fatigue?

21 A. Fatigue, yes, shortness of breath.

22 There's a million things that can cause both of  
 23 those.

24 Q. Sure.

25 You went on that Actavis website --

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1 difficult part.

2 Q. All right. So for that period of time,  
 3 when you were feeling badly and not understanding --

4 A. What was going on.

5 Q. -- what was going on, you were anxious?

6 A. Very --

7 Q. Okay. All right. Did you take --

8 A. -- concerned.

9 Q. Was there anything that you did  
 10 differently with regard to medication or therapy or  
 11 maybe yoga or anything at all that you did that sort  
 12 of calmed that down?

13 A. Well, pray, I did a lot of that.

14 Q. All right.

15 A. I did a lot of thinking. What do I --  
 16 about my family mainly, but I would have to watch  
 17 that because that would make me more anxious too --  
 18 but trying to put things in perspective. "Okay.  
 19 Where are you going to go from here," a lot of  
 20 self-talk.

21 Q. Okay. Since the symptoms have  
 22 disappeared, which was in May of '08, you're back to  
 23 where you were before?

24 A. Sort of.

25 Q. Okay. What is not back to where it was?

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1 A. Uh-huh.

2 Q. -- to see what they had to say.

3 Did you ever try to contact those folks in any  
 4 way?

5 A. No.

6 Q. What about any other drug company? Did  
 7 you try to contact anybody else in that business to  
 8 talk to them about the lawsuit --

9 A. No.

10 Q. -- or this drug?

11 A. No.

12 Q. Are you making a claim in this case for  
 13 emotional distress?

14 A. Yes. It was probably the most traumatic  
 15 thing that's happened to me and to my family.

16 Q. Okay.

17 A. It changed my whole life actually. I --  
 18 the thing that sticks in my mind, is I usually would  
 19 get -- well, I always got a reserved seat to the  
 20 Broadway plays in Owensboro, and I did not do that  
 21 when they could not fix my heart, and I didn't want  
 22 to waste the money.

23 Q. Okay.

24 A. My husband would reach over in the night  
 25 just to be sure I was breathing. That was the most

1 A. Well, you don't go through something  
 2 like that that it doesn't change your outlook on  
 3 life. I'm not nearly as trusting of my generics  
 4 that I was. Truly, I'm not, although I was always  
 5 encouraging to my patients, and I guess the positive  
 6 thing I got out of it is at least I put my  
 7 priorities where they need to be.

8 Q. Yeah, things like this do that for you,  
 9 don't they?

10 A. They do. And I always like to get  
 11 something good out of it. So I got that one. But  
 12 what I saw my family go through, that was the  
 13 hardest part.

14 Q. Did any of them have to go seek  
 15 counseling or anything like that because of this?

16 A. No, they were just so relieved when it  
 17 got better.

18 Q. Your husband doesn't have a loss of  
 19 consortium claim in this case, does he?

20 A. No.

21 Q. Have you and he discussed that?

22 A. No.

23 Q. Are you intending to seek monetary  
 24 damages for that?

25 A. For...

25 (Pages 97 to 100)

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1 Q. Anxiety, fear.  
 2 A. The fear?  
 3 Q. Right.  
 4 A. Yes. Nobody should have to go through  
 5 that.  
 6 Q. Okay.  
 7 A. In fact, that's the reason why -- I've  
 8 never sued anybody in my life, nor do I intend to do  
 9 so in the future. But afterwards, I started  
 10 thinking about what went on and what happened to me  
 11 and how I felt, and I knew there had to be other  
 12 people, and nobody should have to go through that.  
 13 Nobody should have to go through that.  
 14 Q. Okay. Do you have an idea in your mind  
 15 at this point as to what that was -- what's that  
 16 worth?  
 17 A. I don't have a clue.  
 18 Q. Okay. All right. Was there any  
 19 suggestion by Dr. Mathew that any of those symptoms,  
 20 the increased fatigue, sleepiness, shortness of  
 21 breath, irregular heart rhythm, dizziness,  
 22 light-headedness, that any of that might have been  
 23 caused by something else?  
 24 A. No.  
 25 Q. Did you notice any difference in those

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1 symptoms -- other than we've already discussed that  
 2 they seemed to get worse in February of '08, did you  
 3 notice any real difference in those symptoms that  
 4 coincided with a new prescription of 90 pills of  
 5 Digitek?  
 6 A. I didn't connect those. I mean, I  
 7 didn't think about that.  
 8 Q. Do you know if there was any connection?  
 9 A. I know that I got a new prescription  
 10 somewhere in October/November, and my symptoms  
 11 started then. I know I got another prescription  
 12 later on -- I'm guessing at that -- and I started  
 13 having more symptoms. And when I stopped taking the  
 14 medication, symptoms went away.  
 15 Q. Okay. Did any of your doctors suggest  
 16 any tests at all to rule out any other potential  
 17 causes for those symptoms?  
 18 A. My -- as I stated, Dr. Johnson did  
 19 thyroid -- make sure the thyroid isn't too low, iron  
 20 levels. He did several things, the usual things you  
 21 would do with somebody with fatigue.  
 22 Q. Your understanding was that all of those  
 23 tests were negative as a cause?  
 24 A. Only a slight decrease in iron level,  
 25 which he supplemented, but it didn't work.

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1 Q. It didn't work, and that all took place  
 2 before May of '08?  
 3 A. Correct.  
 4 Q. Do you now have to limit your daily  
 5 activities at all because of -- in your mind because  
 6 of having taken Digitek?  
 7 A. No.  
 8 Q. Okay. All of that kind of ended as soon  
 9 as you stopped taking that medicine?  
 10 A. Correct.  
 11 Q. Okay. Has anybody suggested to you that  
 12 you're going to have any effects in the future in  
 13 your health from having taken that Digitek?  
 14 A. No.  
 15 Q. Okay. Anybody told you that they have  
 16 to do any kind of medical monitoring to make sure  
 17 you're not continuing to suffer some effects of the  
 18 Digitek?  
 19 A. No.  
 20 Q. Okay. Now, we're here and there's a  
 21 lawsuit that is filed, and you're named as a class  
 22 representative, one of them, in that lawsuit.  
 23 Do you understand that?  
 24 A. Yes.  
 25 Q. We marked these backwards, but this is

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1 Exhibit 1, and this is -- I would like to ask you,  
 2 do you recognize that?  
 3 A. I believe I've seen this through either  
 4 my -- my local lawyer or through Mr. Jones.  
 5 Q. Okay. And your local lawyer is who?  
 6 A. Chris Rhoads in Owensboro.  
 7 Q. Okay. Now, did you see this document,  
 8 the complaint, before it was filed or after it was  
 9 filed?  
 10 A. I mean, I don't know. I don't remember.  
 11 Q. Okay. The file date, I think, is  
 12 stamped on the front of it.  
 13 A. March 5th, '09. I don't remember  
 14 whether I saw it or not before that date.  
 15 Q. When is the first time --  
 16 A. I can't remember.  
 17 Q. When you saw it for the first time,  
 18 whether it -- well, when you saw it for the first  
 19 time, did you have an opportunity to make any  
 20 revisions to it?  
 21 A. No.  
 22 Q. Was it your understanding it was already  
 23 done and it was going to get filed or had already  
 24 been filed?  
 25 A. Correct.

26 (Pages 101 to 104)

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	Page 105	Page 107
1	Q. Okay. Have you ever read through that	1 in the community and otherwise.
2	document page by page?	2 Q. And so you supervised Mr. Richardson,
3	A. No.	3 and what was his job?
4	Q. Okay.	4 A. He was a substance abuse counselor.
5	A. I have looked through some of it, but	5 Q. Okay. At the hospital?
6	not all of it.	6 A. Correct.
7	Q. Okay. How is it that -- well, let me	7 Q. And does he still work there?
8	back up.	8 A. No.
9	What do you understand the goal of this lawsuit	9 Q. Is he retired?
10	is?	10 A. No. He -- the counseling unit was
11	A. My understanding of it would be that	11 eliminated, and he moved to another position in the
12	those people who were affected one way or another	12 community.
13	are represented and get their voice heard on what	13 Q. So he's also a resident of Indiana?
14	happened to them.	14 A. Kentucky.
15	Q. And those people who are represented are	15 Q. Kentucky. Okay.
16	located where?	16 A. Where I work is in Kentucky.
17	A. In different districts, I understand,	17 Q. I see. I see.
18	this being Kentucky.	18 Okay. So he's got himself another job?
19	Q. Okay. Do you know any of the people?	19 A. Correct.
20	A. Do I know any of these people?	20 Q. And health-wise, do you know how he's
21	Q. Well, on the first page --	21 doing?
22	A. Yes.	22 A. Who?
23	Q. -- the plaintiffs are identified.	23 Q. Richardson.
24	Do you know any of them?	24 A. I don't know. He's not the one that
25	A. Yes, I do.	25 took Digitek.
	Page 106	Page 108
1	Q. Who do you know?	1 Q. Okay.
2	A. I knew Mr. Loney.	2 A. Mr. Loney did.
3	Q. Okay.	3 Q. Let me look at that real quick if you
4	A. And I know Mr. Richardson.	4 don't mind.
5	Q. And how do you know Mr. Richardson?	5 Oh, I see. You're talking about Harold
6	A. I worked with Mr. Richardson, and I also	6 Richardson?
7	worked with and knew Mr. Loney.	7 A. Correct.
8	Q. Okay. And Mr. Loney, you're saying in	8 Q. And he's an executor of Mr. Loney's
9	the past tense. Did he pass away?	9 estate?
10	A. Yes, he has.	10 A. Evidently, yes.
11	Q. When did he pass away?	11 Q. So Richardson never took Digitek, but
12	A. I do not remember the date. I believe	12 Mr. Loney did?
13	it was last year.	13 A. That's the way I understand it, yes.
14	Q. Do you know what he died of?	14 Q. Do you know for a fact if Mr. Loney ever
15	A. No.	15 took Digitek?
16	Q. Do you know if his death had anything to	16 A. No, I do not.
17	do with Digitek?	17 Q. Okay.
18	A. He's named here. That's all I know.	18 A. I haven't seen Mr. Loney or
19	Q. Do you know?	19 Mr. Richardson for several years.
20	A. No, I do not.	20 Q. Okay. Did you -- before you saw the
21	Q. How did you know both of these	21 complaint, whenever that was for the first time, did
22	gentlemen?	22 you know that they were also involved?
23	A. I worked -- actually, I was supervisor	23 A. No.
24	for Mr. Richardson for a while. Mr. Loney was a	24 Q. Once you saw their names on the
25	volunteer on our unit, and I met him several times	25 complaint, whenever that was, did you attempt to

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1 contact at least Mr. Richardson?  
 2 A. No.  
 3 Q. And the other co-executor for  
 4 Mr. Loney --  
 5 A. Carla York.  
 6 Q. -- do you know her?  
 7 A. No.  
 8 Q. Do you know -- okay.  
 9 A. That's Mr. Richardson stepsister, I  
 10 believe, but I don't know her.  
 11 Q. Okay. Okay. So other than knowing  
 12 Mr. Richardson and having known Mr. Loney, both  
 13 through work, do you know any of the other named  
 14 people here?  
 15 A. No.  
 16 Q. Okay. Do you know any of the other  
 17 people who are potentially going to be in the  
 18 class --  
 19 A. No.  
 20 Q. -- of people in this case if the class  
 21 gets certified?  
 22 A. No.  
 23 Q. Have you ever made any effort to see who  
 24 else might be suitable for inclusion in this class?  
 25 A. No.

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1 Q. And what is the scope of the damages  
 2 that you're going to seek to recover for the class  
 3 in this case?  
 4 A. Ask me that again.  
 5 Q. Yeah. What kinds of damages are you, as  
 6 a representative, or one of the representatives,  
 7 going to seek to recover for the class members?  
 8 A. There has to be some economic,  
 9 emotional, or physical -- even though I'm not  
 10 involved with that, but that's what I understand,  
 11 you know, whatever is deemed to be appropriate.  
 12 Q. Okay. But I'm trying to understand what  
 13 exact type of damages are you going to try to  
 14 recover for the members of the class?  
 15 A. Me personally?  
 16 Q. You personally because you're a class  
 17 rep.  
 18 A. Certainly the out-of-pocket expense, and  
 19 certainly I can speak to the emotional piece of it,  
 20 although I didn't have a loved one die.  
 21 Q. Okay. So you're intending to recover  
 22 for the class members what we'll call economic  
 23 damages and emotional damages?  
 24 A. Those are the ones that I can speak to,  
 25 yes.

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1 Q. Can you speak to physical damages for  
 2 the class members?  
 3 A. I don't -- I don't know all the class  
 4 members. I can only give my opinion on what  
 5 happened with me.  
 6 Q. And what economic damages do Ms. York  
 7 and Mr. Richardson have?  
 8 A. The loss of their father, at least from  
 9 that standpoint. If they had money that they had to  
 10 pay out for burial, I'm sure that was part of it.  
 11 Q. Do you know what damage --  
 12 A. No.  
 13 Q. Do you know what -- let's back up.  
 14 Do you know what damages they are thinking they  
 15 would want to recover in this lawsuit?  
 16 A. I've not talked with them, and so I  
 17 don't have any idea.  
 18 Q. Okay. Do you know if they are intending  
 19 just to pursue economic damages, meaning  
 20 out-of-pocket monetary, or a wrongful death case?  
 21 A. That I do not know because I haven't  
 22 talked with them.  
 23 Q. Okay. How is it that you became  
 24 involved in this case as a class representative?  
 25 A. I was asked by Mr. Jones.

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1 Q. And when did he ask you that?  
 2 A. I don't know exactly when it was. It's  
 3 been several months ago. I can't remember.  
 4 Q. Okay. What is your understanding of  
 5 your responsibilities as a class representative?  
 6 A. To present information as truthfully as  
 7 possible. I understand there's some notification of  
 8 the other people -- other members in the class, that  
 9 I'll need to be able to do that.  
 10 Q. Okay. The notification of what?  
 11 A. Probably just about anything: how it's  
 12 progressing, if it's been settled. I'm going to  
 13 depend on Mr. Jones to help me with that.  
 14 Q. Okay. So he'll give you direction as to  
 15 what you need to notify these folks of?  
 16 A. What I need to do, yes.  
 17 Q. You've never been involved in anything  
 18 like this before?  
 19 A. No.  
 20 Q. Have you done any research on what a  
 21 class representative's -- what their duties are --  
 22 A. No.  
 23 Q. -- legally what their duties are?  
 24 A. No.  
 25 Q. Do you know if the class representative

28 (Pages 109 to 112)

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<p>1 may be obligated to spend some of their own money in 2 connection with a class action?</p> <p>3 A. I vaguely know that, yes.</p> <p>4 Q. What do you know about that?</p> <p>5 A. Well, if it's without merit or whatever 6 some basis, then I'm certain that that could happen, 7 yes.</p> <p>8 Q. But what is it you understand could 9 happen in that event?</p> <p>10 A. That I would have to pay damages or 11 legal fees, that sort of thing.</p> <p>12 Q. Are you prepared to do that?</p> <p>13 A. Certainly I don't want to do that, but I 14 wouldn't have agreed to do this if I didn't think 15 this had merit.</p> <p>16 Q. And do you have any idea in your mind as 17 to what legal fees or other damages you personally 18 might have to be responsible for as a class rep?</p> <p>19 A. No, but I'm sure they wouldn't be small. 20 That's all I would know.</p> <p>21 Q. Okay. And you have the financial 22 wherewithal to do that?</p> <p>23 MR. JONES: Objection to the form of the 24 question. I don't think that that's a proper 25 question to talk about whether she has the financial</p>	<p>1 their clients in here have been talked to, and I 2 don't know what the basis for selecting me was.</p> <p>3 Q. Okay. Some of the folks on there who 4 are listed are not going to be class reps after all. 5 Do you have any understanding of how that came 6 about?</p> <p>7 A. No.</p> <p>8 Q. And do you know a Ms. Whitaker?</p> <p>9 A. No.</p> <p>10 Q. Did you know Ms. Fight?</p> <p>11 A. No.</p> <p>12 Q. Were you promised anything if you would 13 be a class representative?</p> <p>14 A. No.</p> <p>15 Q. If you have a claim -- for example, 16 you've got a claim for emotional distress, and there 17 may be other members of the group that might 18 potentially end up to be the class who don't have 19 emotional distress claims.</p> <p>20 Do you have any understanding as to whether 21 your pursuit of that kind of a claim affects their 22 claim in any way?</p> <p>23 A. No.</p> <p>24 Q. Okay. What about a class member like 25 potentially Mr. Richardson or Ms. York --</p>
Page 114	Page 116
<p>1 wherewithal to pay any sort of hypothetical award 2 from the court.</p> <p>3 I mean, I've allowed you to go on a little bit 4 with the scare tactic questions, but we're not going 5 to delve into her personal finances, and we can 6 address with Judge Stanley on that.</p> <p>7 MS. CRISWELL: It's not scare tactics. 8 It's a legitimate question of a class representative 9 to find out if they --</p> <p>10 MR. JONES: She's answered it.</p> <p>11 MS. CRISWELL: Let me finish -- to find 12 out if they really understand what their obligations 13 are.</p> <p>14 MR. JONES: She has answered that she 15 understands.</p> <p>16 MS. CRISWELL: Okay.</p> <p>17 THE WITNESS: I do.</p> <p>18 BY MS. CRISWELL:</p> <p>19 Q. And you're prepared to take on that 20 responsibility?</p> <p>21 A. I do.</p> <p>22 Q. Okay. Were you -- do you know how it 23 was that you were selected to be invited to be a 24 class representative in this lawsuit?</p> <p>25 A. Not specifics. I know that several of</p>	<p>1 A. Uh-huh.</p> <p>2 Q. -- whose father died and presumably -- 3 well, I don't know presumably. It's assumed they 4 would ask for the damages of the death of Mr. Loney. 5 You don't have a wrongful death claim, right?</p> <p>6 A. Correct.</p> <p>7 Q. Would you be comfortable with being a 8 class rep for a class in which some members may have 9 a wrongful death claim that you wouldn't -- you 10 wouldn't have any personal experience with?</p> <p>11 A. That's because I'm still alive, thank 12 God.</p> <p>13 Q. Yeah, but are you comfortable with that?</p> <p>14 A. Yes, because death is -- there is an 15 emotional overload that goes along with that. It's 16 grief. It's dying. It's a loss. Luckily for most 17 of these people, we didn't die, but that doesn't 18 mean that we should have or could have -- couldn't 19 have. And, yeah, I can understand their wrongful 20 death. I can understand that.</p> <p>21 Q. Have you ever been involved in a 22 wrongful death --</p> <p>23 A. No.</p> <p>24 Q. -- case?</p> <p>25 Have you ever filed or pursued any kind of a</p>

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1 claim for the wrongful death of someone?  
 2 A. No.  
 3 Q. Anybody in your family done that?  
 4 A. No.  
 5 Q. And as you sit here today, you don't  
 6 know what any of the other members of the class  
 7 or -- or the individual people who are listed along  
 8 with yourself what they might be thinking they would  
 9 like to gain by this lawsuit or accomplish by this  
 10 lawsuit?  
 11 A. No, I do not. I've not spoken to any of  
 12 them.  
 13 Q. Do you have any plans to speak with any  
 14 of them?  
 15 A. No.  
 16 Q. Your out-of-pocket -- we talked about  
 17 there was a deductible for the hospital. There was  
 18 a co-pay for Dr. Mathew for a visit, three weeks  
 19 lost earnings.  
 20 Any other out-of-pocket expenses that you  
 21 believe you suffered?  
 22 A. Well, I had several prescriptions for  
 23 Digitek that I really shouldn't have had. That  
 24 wasn't very much. I think that was \$7.39. Thank  
 25 goodness for that -- but, you know, anything my

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1 insurance didn't pay, but luckily we have good  
 2 insurance.  
 3 Q. And the Digitek that you were taking  
 4 that you now think you shouldn't have been taking,  
 5 if you hadn't been taking that, the prescription  
 6 might have been Lanoxin, right?  
 7 A. Right.  
 8 Q. Which would have been the same co-pay?  
 9 A. Probably, yes.  
 10 Q. Was there an ambulance ride to the  
 11 hospital?  
 12 A. Correct.  
 13 Q. Were you charged for that, or did your  
 14 insurance cover that?  
 15 A. I think our insurance covered most of  
 16 it. I would have to go back and look. I don't  
 17 know.  
 18 Q. Okay. Did your lawyer send you to any  
 19 doctors?  
 20 A. No.  
 21 Q. And if we wanted to talk to the two  
 22 doctors -- well, if we wanted to talk to your  
 23 doctors who would know the most about your physical  
 24 health and the particular medications that you were  
 25 taking and your heart condition, that would be

1 Dr. Johnson and Dr. Mathew?  
 2 A. Yes.  
 3 Q. Okay. Anybody else?  
 4 A. Those would be the ones primarily  
 5 involved with this part.  
 6 MS. CRISWELL: Okay. I tell you what,  
 7 for right now I think I've asked all the questions I  
 8 can imagine. I'm going to go back through my notes.  
 9 Holly, would you like to jump in at this point?  
 10 MS. SMITH: Sure.  
 11  
 12 EXAMINATION  
 13  
 14 BY MS. SMITH:  
 15 Q. Ms. Ard, again, my name is Holly Smith,  
 16 and I'm representing the Mylan defendants in this  
 17 case. And I'm sorry that I'm appearing by  
 18 telephone. I know that sometimes makes it a little  
 19 bit more difficult to hear my questions. So feel  
 20 free to let me know if something didn't come across  
 21 completely or if you have any questions. All right?  
 22 A. All right.  
 23 Q. As a nurse practitioner, you're able to  
 24 prescribe medication; is that correct?  
 25 A. That's correct.

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1 Q. Do you ever or have you ever weighed and  
 2 measured medications?  
 3 A. No.  
 4 Q. And I may jump around a little bit just  
 5 given that I'm going off of notes that I took from  
 6 Leslie's questioning.  
 7 I believe you testified that there are three  
 8 90-day prescriptions for Digitek that are the focus  
 9 of your case.  
 10 Would that be correct?  
 11 A. I believe so. I got -- according to  
 12 dates, that's probably right.  
 13 Q. So to the extent you had been prescribed  
 14 Digitek prior to November of 2007, that's not -- or  
 15 2006 -- excuse me -- that's not part of your case  
 16 now; is that correct?  
 17 MS. CRISWELL: No, it is 2007, I think.  
 18 MS. SMITH: Oh, you're right.  
 19 THE WITNESS: Yeah.  
 20 BY MS. SMITH:  
 21 Q. So to the extent you were prescribed  
 22 Digitek before November of 2007, are you suing in  
 23 relation to those prescriptions?  
 24 A. Prior to -- to November of 2007 or  
 25 October, whichever it was, no.

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<p style="text-align: center;">Page 121</p> <p>1 Q. When you went on the websites for the 2 FDA and for Actavis and read about the medications, 3 I believe you said that you read that the tablets 4 were twice as thick; is that correct?</p> <p>5 A. Yes, that's what the -- the information 6 that was on the website, that's what they had 7 described.</p> <p>8 Q. Did those websites say whether 9 100 percent of those tablets had been double thick 10 or some of them had been or in any way quantify the 11 number of tablets that had been found that were 12 double thick?</p> <p>13 A. I don't know exactly, but I understood 14 that there were just some that were.</p> <p>15 Q. And you believe that all of the Digitek 16 that you took from those prescriptions were double 17 thick or just some of them?</p> <p>18 A. Based -- I can only base it on my 19 symptoms, and I would say that there was too much 20 digitalis or digoxin in those tablets from October 21 to May.</p> <p>22 Q. And maybe not double thick, but too 23 much; is that what you're saying?</p> <p>24 A. That's right.</p> <p>25 Q. And would that be for each and every</p>	<p style="text-align: center;">Page 123</p> <p>1 for bearing with me over the phone.</p> <p>2</p> <p>3 EXAMINATION</p> <p>4</p> <p>5 BY MS. CRISWELL:</p> <p>6 Q. So I just have a few more. There's 7 always a few more.</p> <p>8 Any of those three prescriptions of Digitek 9 that we've been talking about, did you show those 10 tablets to anyone?</p> <p>11 A. No.</p> <p>12 Q. Okay. Did you show them to your 13 husband, for example?</p> <p>14 A. No.</p> <p>15 Q. Or your daughters?</p> <p>16 A. No.</p> <p>17 Q. Did anybody ask to see them?</p> <p>18 A. No.</p> <p>19 Q. All right. At some point in your life, 20 you were on Vioxx --</p> <p>21 A. Right.</p> <p>22 Q. -- right?</p> <p>23 Was that taken off the market?</p> <p>24 A. Yes.</p> <p>25 Q. Did you have any side effects from that?</p>
<p style="text-align: center;">Page 122</p> <p>1 tablet, or do you think some of those tablets were 2 fine and others of them had too much?</p> <p>3 A. I can't speak to that. I don't know.</p> <p>4 Q. You mentioned that you have a patient 5 who you believe is still taking Digitek.</p> <p>6 Have you talked to her about the fact that 7 you're bringing a lawsuit about Digitek?</p> <p>8 A. No.</p> <p>9 Q. Do you understand that -- and this is a 10 question. Do you know whether she would be a 11 proposed class member in the class that you are 12 requesting?</p> <p>13 A. No, she's -- she never gave me any 14 indication she was having any problems whatsoever.</p> <p>15 Q. Is your lawsuit, then, in your 16 understanding, limited to people who had problems 17 with Digitek or anybody that took Digitek?</p> <p>18 A. Only people who had problems with it.</p> <p>19 Q. So to the extent a person took Digitek 20 but didn't experience any type of physical symptom, 21 then they would not be a member of your proposed 22 class as you understand it?</p> <p>23 A. As I understand it.</p> <p>24 MS. SMITH: I think those are all the 25 questions I have for you today. Again, thank you</p>	<p style="text-align: center;">Page 124</p> <p>1 A. No.</p> <p>2 Q. What about Zelnorm? Did you take that?</p> <p>3 A. I did take that.</p> <p>4 Q. Do you still take that?</p> <p>5 A. No.</p> <p>6 Q. Was that taken off the market?</p> <p>7 A. Yes.</p> <p>8 Q. Did you have any side effects from that?</p> <p>9 A. No.</p> <p>10 Q. You take a drug called Pacerone?</p> <p>11 A. Pacerone.</p> <p>12 Q. Pacerone?</p> <p>13 A. Yes.</p> <p>14 Q. And what is that for?</p> <p>15 A. It is a medication used to control heart 16 rhythm -- keep it at a normal rhythm.</p> <p>17 Q. And how long have you been taking 18 Pacerone?</p> <p>19 A. I am not taking Pacerone anymore.</p> <p>20 Q. When was the last time?</p> <p>21 A. Probably April of '06 -- March or April 22 '06, March.</p> <p>23 Q. And were you taken off of that by a 24 doctor?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 125</p> <p>1 Q. And which doctor?      2 A. Dr. Khanna, who is the cardiac surgeon.      3 Q. Okay. So this was after your open heart      4 surgery?      5 A. Correct.      6 Q. And did he tell you why he was taking      7 you off that?      8 A. Yes, I was having side effects from it.      9 Q. Which were what?      10 A. Nausea and vomiting. Those are common      11 side effects for that medication.      12 Q. How do you spell his last name?      13 A. K-H-A-N-N-A.      14 Q. How long prior to that were you taking      15 Pacerone?      16 A. Only after surgery.      17 Q. So it was just that limited time?      18 A. Correct.      19 Q. I was just looking through something      20 here that, you know, kind of talks about your      21 medical records. There was, on February 22 of '08,      22 apparently a blood test done to see what your      23 digoxin level was, and it appears that it was at      24 what's called a subtherapeutic level.      25 Do you know what subtherapeutic level means?</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. And did Dr. Johnson ever      2 prescribe Digitek or any digitalis medication?      3 A. I don't think so.      4 Q. Did Dr. Caraco ever?      5 A. Not that I'm aware of.      6 Q. It was only ever Dr. Mathew?      7 A. Correct.      8 Q. Bear with me just a minute here.      9 Did you have, during this 2006 to 2008 time      10 frame, any fluctuations in your weight other than a      11 couple pounds here and there?      12 A. Yes, I did when I was on the Pacerone.      13 Q. Because of the nausea?      14 A. Because of the nausea and vomiting.      15 Q. Okay. So that would have been February,      16 March, April, or thereabouts of '06?      17 A. Right.      18 Q. And after that, the weight stabilized      19 after that?      20 A. Yes. Other than a couple of pounds up      21 or down, it's been stable since.      22 Q. I'm not -- I admit to you I'm not      23 sitting here looking at your actual medical records      24 because there were a good number of those, and I      25 don't have those with me.</p>
<p style="text-align: right;">Page 126</p> <p>1 A. Yes.      2 Q. What does that mean?      3 A. That means it's not up to the limit      4 required to be effective.      5 Q. Meaning what?      6 A. Meaning either I missed a dose or it was      7 withheld, and the level will begin to drop pretty      8 quickly.      9 Q. Okay. Because it has a pretty short --      10 A. Yes.      11 Q. -- half-life?      12 A. That's the reason it has to be taken      13 every day.      14 Q. Did you keep any record of any days      15 where you may have forgotten to take Digitek?      16 A. No, there was so few. I was pretty good      17 about that.      18 Q. You were really pretty regular about      19 that?      20 A. I have always been regular with that.      21 Q. What is Caraco, C-A-R-A-C-O? Does that      22 sound familiar?      23 A. Yes. That's Dr. Caraco.      24 Q. Who is he?      25 A. He was an associate of Dr. Johnson.</p>	<p style="text-align: right;">Page 128</p> <p>1 But I have an indication here that in December      2 of '06, you were advised by Dr. Mathew to continue      3 using all your regular medications except Coumadin.      4 A. Correct.      5 Q. And one of the medications in the      6 doctor -- this is Dr. Mathew's chart/office note, is      7 that you were to continue taking Lanoxin?      8 A. Correct.      9 Q. So you had told me earlier that from      10 February of '06 until May of '08, except for that      11 few days in the hospital, you were taking Digitek?      12 A. Correct.      13 Q. Does this refresh your recollection that      14 in fact you were taking Lanoxin?      15 A. Dr. Mathew's prescriptions always were      16 written for Lanoxin.      17 Q. They were?      18 A. Yes.      19 Q. Okay.      20 A. And sent to Caremark. Caremark      21 substituted it with Digitek.      22 Q. Oh. At what point did you recognize      23 that Dr. Mathew's prescription, the actual      24 prescription, said, "Lanoxin 0.25" and that Caremark      25 would send you Digitek?</p>

32 (Pages 125 to 128)

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1 A. Early on.  
 2 Q. And did you say anything to him about  
 3 that?  
 4 A. He was aware of it, because when I went  
 5 to see him the next time, they were asking me what  
 6 medications I was on, and I would say, "Digitek."  
 7 Q. Okay. So did you have more than one  
 8 conversation with him over the course of time about  
 9 "Hey, you're prescribing Lanoxin, and they're  
 10 sending me Digitek"?  
 11 A. No.  
 12 Q. Just one time?  
 13 A. Well, it wasn't just him. It was  
 14 discussion on what the medications were. I gave him  
 15 the list, and it was Digitek, not Lanoxin, and it  
 16 was in my chart thereafter that it was Digitek, but  
 17 he always would write a prescription for Lanoxin.  
 18 Q. Okay. So he would write Lanoxin, but in  
 19 his chart, you would expect it to say, "Digitek"?  
 20 A. I would expect it to unless it wasn't  
 21 changed.  
 22 Q. Unless...  
 23 A. Unless they just didn't change it, but,  
 24 yes, I would expect it to be that way.  
 25 Q. Who would you have told that "Hey, I'm

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1 that would you have told them, "It's not Lanoxin.  
 2 It's Digitek"?  
 3 A. Correct.  
 4 Q. And you've got the Caremark records  
 5 which confirm the name Digitek?  
 6 A. I believe we do.  
 7 Q. All right. Do you know if those have  
 8 been handed to your lawyer?  
 9 A. Yes, I understand they have.  
 10 Q. Did you do that, physically hand them  
 11 over?  
 12 A. I can't remember. I can't remember.  
 13 MS. CRISWELL: Okay. And then, Counsel,  
 14 again, I just would like if you've got something  
 15 that shows the name Digitek...  
 16 MR. JONES: You guys have been provided  
 17 with the Caremark pharmacy records that just list  
 18 Digitek over and over and over and over again.  
 19 MS. CRISWELL: Okay. Even though the  
 20 doctor's records say, "Lanoxin"?

21 MR. JONES: Well, I guess the doctor  
 22 wrote a prescription, and the pharmacist said,  
 23 "We're paying for the generic." That's not  
 24 uncommon.

25 MS. CRISWELL: These aren't prescription

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1 not taking Lanoxin. I'm taking Digitek"?  
 2 A. Dr. Mathew's nurse.  
 3 Q. Has that always been the same person?  
 4 A. No.  
 5 Q. There's a woman's name in here,  
 6 Christina House.  
 7 A. She's a PA, I believe.  
 8 Q. And she's a physician's assistant?  
 9 A. Correct.  
 10 Q. Her office note of February 19 or  
 11 February 21 of '08, right in the time where you said  
 12 your symptoms were much worse, says that one of the  
 13 medications that you are taking is Lanoxin, 0.25 MG  
 14 daily.  
 15 Were you taking Lanoxin?  
 16 A. I was taking Digitek.  
 17 Q. You're sure?  
 18 A. Yes.  
 19 Q. Okay. And you're confident that your  
 20 paperwork from Caremark identifies it as Digitek,  
 21 not Lanoxin?  
 22 A. Correct.  
 23 Q. And you're confident that you would have  
 24 sought to correct your doctor's records each time  
 25 you went in and compared notes about medications,

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1 records I'm talking about. These are chart notes  
 2 and doctor's notes saying Lanoxin is what she's  
 3 taking.  
 4 MR. JONES: I have the bottle with the  
 5 pills and the pharmacy records.  
 6 MS. CRISWELL: Do you have that here?  
 7 MR. JONES: No.  
 8 MS. CRISWELL: No?  
 9 MR. JONES: No.  
 10 BY MS. CRISWELL:  
 11 Q. Do you remember, Ms. Ard, contacting  
 12 Dr. Mathew's or -- Dr. Mathew -- or Dr. Johnson's  
 13 offices as soon as you started having the dizziness  
 14 and the light-headedness?  
 15 A. Close to that. I can't say exactly  
 16 when, but certainly when I -- it was probably in  
 17 February when it got really bad.  
 18 Q. Uh-huh. I'm looking at a chart note  
 19 here that supposedly says that on May 8 of '08, you  
 20 indicated -- and I think this must be to  
 21 Dr. Mathew's office that you had increased  
 22 intermittent dizziness for the past few weeks.  
 23 Does that sound right --  
 24 A. Yes.  
 25 Q. -- or do you recall that you had that in

33 (Pages 129 to 132)

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1   February, that dizziness? 2   A. Oh, I had it in February. That's what 3   prompted the cardiac cath, the trip to Louisville, 4   the -- all the other testing. 5   Q. Okay. So if it says, "for the past few 6   weeks in May of '08," it really should have been for 7   the past few months? 8   A. No, it was worst for the last few weeks 9   in May. 10   Q. Okay. I got it. 11   Do you know if somebody tried to -- somebody on 12   your behalf tried to convince Dr. Mathew to help out 13   in this case to provide medical expertise of some 14   type? 15   A. In what case? I'm sorry? 16   Q. This case, this lawsuit. 17   A. Oh, as far as I know, all that he did 18   was to give a statement of him being my physician, 19   and I don't know what he said. 20   Q. Okay. Is there somebody named Becky who 21   works in Mr. Rhoads's office? 22   A. Maybe. I don't know. 23   Q. Did you ever talk to Dr. Mathew about 24   helping out in this lawsuit, either helping you or 25   helping the class members out in this lawsuit?	1   about? 2   A. Just -- just that it was happening and 3   basically what we had been through and my rationale 4   as to why I wanted to be part of it. 5   Q. Okay. Did he have any disagreement with 6   that? 7   A. No. 8   Q. Have you talked with your daughters 9   about that at all? 10   A. Just in generalities. 11   Q. What does that mean? 12   A. Just the fact that I was doing it, that 13   I was coming to Louisville, things like that. 14   Q. Okay. And what did they think about 15   that? 16   A. That was fine. 17   Q. Have you ever had a stroke? 18   A. No. 19   Q. Okay. Do you have any blood clot 20   problems? 21   A. I have had a blood clot in my left leg 22   two different times in my lifetime. 23   Q. In the last 10 years? 24   A. I don't believe so. I think it was 25   longer than that.
Page 134	Page 136
1   A. No. The only conversation we had was 2   about my care. 3   Q. And in February of '09, now we're many 4   months after you stopped taking Digitek and you're 5   back to normal physical -- none of those symptoms 6   are continuing, I see an indication -- and, again, 7   it looks like Dr. Mathew's -- Dr. Mathew's office of 8   palpitations that you were having, chest discomfort, 9   jaw pain, and one of the episodes lasted as long as 10   20 minutes. 11   A. Right. 12   Q. What did your doctor tell you about what 13   was causing that? 14   A. That was -- I believe that's when he 15   increased the Toprol to 37.5. 16   Q. Okay. All right. 17   A. So he changed my medications. 18   Q. That was the only change, or were there 19   other changes? 20   A. No, that was the only one that I can 21   recall. 22   Q. Okay. Have you -- have you spoken with 23   any of your family members about this litigation? 24   A. My husband. 25   Q. Yeah. And what did you and he talk	1   Q. Okay. Any renal dysfunction? 2   A. I have kidney stones. 3   Q. Kidney stones. 4   Anything else that you characterize that way? 5   A. Not renal problems, no. I was 6   hospitalized with pyelonephritis in February, and 7   that was secondary to a kidney stone. 8   MS. CRISWELL: All right. I think I 9   don't have anything further. Holly, do you? 10   MS. SMITH: I'm actually looking at my 11   notes and see that I wanted to ask about something 12   earlier that I didn't catch. So if it's all right, 13   I would like to ask that now. 14   MS. CRISWELL: Sure. 15 16   EXAMINATION 17 18   BY MS. SMITH: 19   Q. Ms. Ard, earlier you said that you 20   became involved in this litigation when you were 21   asked by Mr. Jones; is that correct? 22   A. No. I contacted -- 23   Q. How did you become involved as a class 24   rep in this case? 25   A. Oh, as a class rep? Okay. That's a

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1 different thing.

2 Q. Let me clarify that, or let me let you  
3 clarify that.4 When did you first approach Mr. Jones about an  
5 individual case for you and you only?6 A. I didn't. I spoke with my local lawyer,  
7 Chris Rhoads in Owensboro, Kentucky. I contacted  
8 his office just to investigate as to what might be  
9 done, and he started the process, and then it was  
10 handed over to Mr. Jones.11 Q. And at the time you approached -- or you  
12 asked Mr. Rhoads about a possible lawsuit, were you  
13 thinking for yourself only or were you thinking of  
14 filing a class action?15 A. I didn't know which one I would be  
16 doing. I had no idea. It was just purely asking  
17 questions.

18 Q. And you reached out to him --

19 A. Yes.

20 Q. -- is that correct?

21 And then at what point did you decide that you  
22 would pursue a class action as opposed to an  
23 individual case?24 A. I don't remember. I don't remember when  
25 that switched. I have no idea.

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1 Q. Why do you want to bring a class action  
2 as opposed to just an individual case?3 A. I don't know enough about the law to  
4 know which one is the most advantageous, and I had  
5 to leave that up to my lawyers to make that  
6 decision.7 MS. SMITH: All right. That's what I  
8 wanted to ask. Thank you.9 MR. JONES: I have a few questions if  
10 that's all right.

11 MS. CRISWELL: Sure.

## 13 EXAMINATION

15 BY MR. JONES:

16 Q. Lorena, I know that this has been a  
17 little confusing today trying to wear two hats.

18 A. Right.

19 Q. One is the class representative, and one  
20 is your individual -- for your individual claims; is  
21 that fair?

22 A. Yes, that's fair.

23 Q. Now, on the individual side, you're  
24 making claims for your personal injuries and your  
25 out-of-pocket expenses, right?

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1 A. Correct.

2 Q. And then --

3 MS. SMITH: Objection, leading.

4 MS. CRISWELL: Yeah, it is.

5 MR. JONES: That's fine.

6 BY MR. JONES:

7 Q. What kinds of claims are you making in  
8 your individual case?

9 A. Mine personally and financial.

10 Q. And then for the class, are you seeking  
11 just economic damages?

12 MS. SMITH: Objection, leading.

13 MS. CRISWELL: Join.

14 BY MR. JONES:

15 Q. That's okay. I'll just speak for the  
16 record. We've stipulated, and I think you  
17 understand this, we've stipulated that the class  
18 action is only for economic damages and not other  
19 people's personal injuries.

20 A. That's what I understand, yes.

21 Q. As part of those economic damages that  
22 you're seeking on behalf of the class, would unused  
23 prescriptions that were recalled, would that be part  
24 of the economic damages?

25 A. I would say yes. If it's something that

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1 you purchased that you can't use anymore, yes.

2 Q. Okay. And some of the people out there  
3 that are members of the class, is it possible that  
4 some of them would not have been physically injured  
5 by the recalled Digitek?6 MS. CRISWELL: Well, of course, that  
7 calls for complete speculation and lacks foundation  
8 since she doesn't know any of the members, which  
9 you've pointed out at length earlier today.

10 MR. JONES: But you can answer.

11 A. I understand that not everybody died,  
12 and there had to be symptoms or people -- so there's  
13 a wide variety of where people are.14 Q. Do you understand that -- she kind of  
15 interrupted on the question.16 Do you understand that part of the economic  
17 damages that you would be recovering on behalf of  
18 the class would include the cost of the prescription  
19 that they had filled but then couldn't use because  
20 of the recall?21 A. Right. For myself, I would expect that,  
22 yes.23 Q. Right, and on behalf of the class, would  
24 you expect that as well?

25 A. Yes.

35 (Pages 137 to 140)

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<p style="text-align: center;">Page 141</p> <p>1 Q. And on behalf of the class, are you also 2 seeking the costs that individuals would have to 3 incur for things such as office visits and blood 4 work to get a change to a different form of digoxin, 5 for instance?</p> <p>6 A. I'm sure that people have to be like me 7 in the fact that they've had those expenses, medical 8 doctors, follow-up, medication, medication changes, 9 and I would expect that, yeah.</p> <p>10 Q. Okay.</p> <p>11 A. If it's related to this, I would say 12 yes. I understand that.</p> <p>13 MR. JONES: Okay. That's all the 14 questions I have.</p> <p>15 EXAMINATION</p> <p>16 BY MS. CRISWELL:</p> <p>17 Q. Okay. Just a few then: Some of the 18 folks -- your belief as you sit here today, even 19 though you haven't talked to any of these folks -- 20 is that some of the folks who may be in the class 21 may have economic damage claims, right?</p> <p>22 A. Yes.</p> <p>23 Q. Some of them may not?</p>	<p style="text-align: center;">Page 143</p> <p>1 EXAMINATION</p> <p>2 BY MR. JONES:</p> <p>3 Q. I have one more question.</p> <p>4 A. Uh-huh.</p> <p>5 Q. Have any of the lawyers for these big 6 pharmaceutical companies provided you with a list of 7 the potential class members or users of their drug?</p> <p>8 A. No.</p> <p>9 Q. So would you have any way of knowing who 10 used their drug?</p> <p>11 A. No.</p> <p>12 Q. And you wouldn't know that until they 13 provided you with that information?</p> <p>14 A. No. The only ones I would know are here 15 in this stack.</p> <p>16 MR. JONES: I have no additional 17 questions.</p> <p>18 EXAMINATION</p> <p>19 BY MS. CRISWELL:</p> <p>20 Q. Has your lawyer provided you with the 21 names of these potential members?</p>
<p>24</p> <p>25</p> <p style="text-align: center;">Page 142</p> <p>1 A. I can't imagine someone not, but, yes.</p> <p>2 Q. Okay. Some of them may have bodily 3 injury claims?</p> <p>4 A. Yes.</p> <p>5 Q. Some may not?</p> <p>6 A. Yes.</p> <p>7 Q. Some may have claims for emotional 8 distress or anxiety?</p> <p>9 A. Yes.</p> <p>10 Q. And some may not?</p> <p>11 A. Yes.</p> <p>12 Q. And some may have claims for wrongful 13 death?</p> <p>14 A. Correct.</p> <p>15 Q. And some may not?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And you're comfortable with all 18 of those different patterns being in one lawsuit --</p> <p>19 A. Yes.</p> <p>20 Q. -- for which the class is only claiming 21 economic damages?</p> <p>22 A. Right.</p> <p>23 MS. CRISWELL: Okay.</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 144</p> <p>1 A. No.</p> <p>2 Q. Have you asked anybody to provide you 3 with that information?</p> <p>4 MR. JONES: No questions.</p> <p>5 MS. CRISWELL: Holly, anything else?</p> <p>6 MS. SMITH: Not on my end.</p> <p>7 MS. CRISWELL: Okay. Can we just say, 8 "same stipulation" on this?</p> <p>9 MR. JONES: As the last one, yeah.</p> <p>10 MS. CRISWELL: Because we have the same 11 court reporter here. So would that be adequate for 12 you? Okay. Good.</p> <p>13 MR. JONES: Thank you very much. (CONCLUDED AT 3:21 P.M.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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STATE OF KENTUCKY )  
)SS: ERRATA  
COUNTY OF JEFFERSON )

I HAVE READ THE FOREGOING PAGES, AND THE STATEMENTS CONTAINED THEREIN (SUBJECT TO CORRECTIONS, ADDITIONS, AND DELETIONS CONTAINED IN THE ADDENDUM ANNEXED HERETO, IF ANY), AND THEY ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

LORENA ARD

SUBSCRIBED AND SWORN BEFORE ME THIS DAY BY  
, THIS DAY OF 2009.  
MY COMMISSION EXPIRES:

NOTARY PUBLIC

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COMMONWEALTH OF KENTUCKY )  
)

COUNTY OF JEFFERSON )

I, LISA MIGLIORE BLACK, CCR-KY, A NOTARY PUBLIC, WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING DEPOSITION OF

LORENA ARD

WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH; THAT THE DEPOSITION WAS TAKEN BEFORE ME STENOGRAPHICALLY AND AFTERWARDS TRANSCRIBED UNDER MY DIRECTION; THAT THE FOREGOING IS A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE SAID DEPOSITION SO GIVEN; THAT THERE WAS NO REQUEST THAT THE WITNESS READ AND SIGN THE TRANSCRIPT; THAT THE APPEARANCES WERE AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR OF KIN TO ANY OF THE PARTIES TO THIS ACTION, AND AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID ACTION.

WITNESS MY SIGNATURE THIS 18TH DAY OF DECEMBER, 2009. MY COMMISSION EXPIRES NOVEMBER 10, 2013.

NOTARY PUBLIC  
STATE AT LARGE, KENTUCKY

37 (Pages 145 to 146)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE: DIGITEK®  
PRODUCT LIABILITY LITIGATION

Master Docket No.

MDL No. 1968

PLAINTIFF: Lorena Ard  
(name)

AMENDED DIGITEK® PLAINTIFF FACT SHEET

Please provide the following information for each individual on whose behalf a claim is being made. Please answer every question to the best of your knowledge. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. If you cannot recall all of the details requested, please provide as much information as you can. You must supplement your responses if you learn that they are incomplete or incorrect in any material respect. If you are completing the Fact Sheet for someone who has died or who cannot complete the Fact Sheet him/herself, please answer as completely as you can for that person.

The Fact Sheet shall be completed in accordance with the requirements and guidelines set forth in the applicable Case Management Order. A completed Fact Sheet shall be considered interrogatory answers pursuant to Fed. R. Civ. P. 33 and as responses to requests for production pursuant to Fed. R. Civ. P. 34 will be governed by the standards applicable to written discovery under Fed. R. Civ. P. 26 through 37. The questions and requests for production contained in the Fact Sheet are non-objectionable and shall be answered without objection.

In filling out this form, please use the following definition: "healthcare provider" means any hospital, clinic, center, physician's office, infirmary, medical or diagnostic laboratory, or other facility that provides medical care or advice, and any pharmacy, x-ray department, radiology department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, chiropractor, or other persons or entities involved in the diagnosis, care and/or treatment of you.

In addition, to the extent that the form does not provide enough space to complete your responses or answers, please attach additional sheets as necessary.

I. CASE INFORMATION

1. Please state the following for the civil action that you filed:
  - a. Case caption: Please see attached.
  - b. Civil Action Number: 3:09-CV-234
  - c. Court in which action was originally filed: Jefferson Circuit Court. Removed to United States District Court Western District of Kentucky
  - d. Your attorney:

Name: Please see attached.

Address: \_\_\_\_\_

2. Name of person completing this form: Lorena Ard with assistance and transcription by counsel
3. Please list any other names you have used or by which you have been known and dates you used those names:  
[REDACTED]

4. Your current address: [REDACTED]

5. If you are completing this Fact Sheet in a representative capacity (e.g., on behalf of the estate of a deceased person or a minor), please complete the following:

a. Describe the capacity in which you are representing the individual or estate: \_\_\_\_\_

b. If you were appointed as a representative by a court, state the: \_\_\_\_\_

Court Which Appointed You: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_

c. What is your relationship to the individual you represent: \_\_\_\_\_

d. If you represent a decedent's estate, state: \_\_\_\_\_

Decedent's Date of Death: \_\_\_\_\_

Address of Place Where Decedent Died: \_\_\_\_\_

e. If you are claiming the wrongful death of a family member, identify any and all family members, beneficiaries, heirs or next of kin of that person, including their relationship to Decedent:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE REST OF THIS FACT SHEET REQUESTS INFORMATION ABOUT THE PERSON WHO PURCHASED, OR PURCHASED AND USED DIGITEK®, WHETHER YOU ARE COMPLETING THIS FACT SHEET FOR YOURSELF OR FOR SOMEONE ELSE, PLEASE ASSUME THAT "YOU" MEANS THE DIGITEK® PURCHASER OR PURCHASER AND USER.

II. CLAIM INFORMATION

1. Name of Digitek® Purchaser/User:

Lorena Ard

2. Have you used any other names in the last five (5) years? Yes        No  X

If yes, please list any such names that you have used:

3. Do you claim that you suffered bodily injuries as a result of taking Digitek®?

Yes  X  No        If Yes, please answer the following:

a. What bodily injuries do you claim resulted from your use of Digitek®?

Cardiac arrhythmias--called ventricular flutter; tachycardia; lightheadedness;

shortness of breath; chest pain; dizziness; fatigue

b. When is the first time you saw a health care provider for any of the symptoms you link to your alleged injury?January 2008

c. Are you currently experiencing symptoms related to your alleged injury?

Yes        No  X  If Yes, please describe the symptoms:

d. Did you see a doctor, clinic or healthcare provider for the bodily injuries or illness listed above?

Yes  X  No        If Yes, who:Dr. David Johnson; Dr. Roshan Mathew

e. Who diagnosed your injury?Dr. Mathew

f. Date of diagnosis:Approximately 5/18/08

g. Were you hospitalized?

Yes  X  No        If Yes, please answer the following:

- 1) Date of hospital admission: 2/25/2008
- 2) Date of discharge: Transported to another hospital the following day;  
Discharged from the second hospital 2/29/08
- 3) Hospital name and address: Owensboro Medical Health System and  
Jewish Hospital

h. What harm or consequence including physical limitations, do you claim you suffered as a result of the bodily injury above, excluding any mental or emotional damages, lost wages or out of pocket expenses listed below?

Plaintiff felt awful for about six months. The irregular heartbeat was frightening to Plaintiff. Plaintiff was very fatigued. It limited her social activities. Plaintiff had difficulty doing her job in the manner in which she was accustomed.

i. Do you claim that your injury was caused by ingesting defective Digitek® medication?

Yes X No \_\_\_\_\_ If Yes, please answer the following:

- 1) Describes in detail what you claim the defect to have been in the Digitek® medication that you ingested: Pills may have been double thickness or otherwise contained a larger dose than stated.
- 2) How much of the defective product did you ingest? Plaintiff took Digitek from the end of October 2007 through the recall, daily.
- 3) When did you ingest the product? October 2007-early May 2008.

j. Have you had any discussions with any doctor or other healthcare provider about whether Digitek® caused you to suffer any illness or injury?

Yes X No \_\_\_\_\_ If Yes, who: Dr. Mathew and Dr. Johnson

4. Are you claiming mental and/or emotional damages as a result of taking Digitek®?

Yes X No \_\_\_\_\_

If Yes, what mental and/or emotional damages do you claim resulted from your use of Digitek®?

Plaintiff has suffered a lot of fear and anxiety.

If Yes, for each provider (including but not limited to primary care physicians, psychiatrists, psychologists, and/or counselors) from whom you have sought treatment for psychological, psychiatric or emotional problems, state the following:

NAME	ADDRESS	CONDITION TREATED	DATE TREATED	MEDICATIONS PRESCRIBED

5. Are you making a claim for lost wages or lost earning capacity?

Yes    No   X   If Yes, state the annual gross income you derived from your employment for each of the last five (5) years:

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6. Have you incurred any out-of-pocket expenses as a result of using Digitek®?

Yes   X   No    If Yes, please identify and itemize all out-of-pocket expenses you have incurred: Copays for the hospitalization and the doctors and medications.

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7. What other damages, if any, do you claim you suffered as a result of the purchase or ingestion of Digitek®?

Plaintiff has had significant pain and suffering. She lost significant quality of life.

Plaintiff was unable to do the things she enjoyed. Plaintiff felt bad for her family. Plaintiff

has incurred costs associated with diagnosis and treatment of her injuries and the costs replacing the product, including tests and other procedures related to the new medication.

### III. DIGITEK® PRESCRIPTION INFORMATION

1. Have you ever used Digitek®? Yes   X   No   

2. If you answered yes to No. 1, identify the following for each period of time during which you took Digitek®:

USAGE (1-25 MG OR .250 MG)	HOW OFTEN PER DAY (DAILY, 3X A DAY, ONCE A DAY)	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER
.250	daily	October 2007	February 2008	Roshan K. Matthew

3. Name(s) and address(es) of pharmacies where prescriptions were filled: CVS Caremark  
Buehler's Pharmacy, Rockport

4. Identify the condition for which you were prescribed Digitek®: post-open heart surgery  
and bypass

5. Did you receive any free samples of Digitek®?

Yes X No \_\_\_\_\_ If Yes, please state the following:

- a. Who provided the samples? \_\_\_\_\_
- b. When were samples provided? \_\_\_\_\_
- c. What was the dosage of the samples? \_\_\_\_\_
- d. How many samples were provided? \_\_\_\_\_

6. Do you have in your possession or does your attorney have the packaging from the Digitek® you allegedly purchased, or purchased and used, and/or any Digitek® tablets?

Yes X No \_\_\_\_\_

- a. If yes, who currently has custody of the Digitek® packaging and/or tablets?

Lawrence L. Jones II

- b. If you or your attorney is in possession of tablets, how many do you have? 117 by counsel's count
- c. Have you or anyone on your behalf tested the Digitek® tablets in your possession?

Yes \_\_\_\_\_ No X If Yes,

- 1) Who tested the tablets? \_\_\_\_\_
- 2) What test(s) was performed? \_\_\_\_\_
- 3) How many tablets were tested? \_\_\_\_\_
- 4) When were the tests performed? \_\_\_\_\_

5) What were the test results? \_\_\_\_\_

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(NOTE: In lieu of answering the following Question Nos. 7a and 7b, please attach a clear copy of the product packaging and/or the label on the vial or blister pack of Digitek® in your or your attorney's possession that provides the information sought below.)

- 7a. Do you know the lot number(s) for any of the Digitek® you received?

Yes  No \_\_\_\_\_

If Yes, what is/are the lot number(s): See attached records

- 7b. Do you know the expiration date for any of the Digitek® you received?

Yes  No \_\_\_\_\_

If Yes, when is/was/were the expiration date(s): 2/15/09

8. Have you had any communication, oral or written, with any of the defendants or their representatives?

Yes \_\_\_\_\_ No

If Yes, set forth the date of the communication, the method of communication, the name of the person with whom you communicated, and the substance of the communication between you and any defendants or their representatives:

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9. Have you ever used any other digoxin or digitalis product (i.e. Lanoxin)?

Yes  No \_\_\_\_\_

If Yes, please state: Please see attached.

DRUG NAME (GENERIC AND NONGENERIC)	HOW OFTEN PER DAY OR WEEK	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER
Digoxin .250	daily	after surgery and before Digitek		
		possibly 02/06		

10. Are you aware that Digitek® was recalled?

Yes  No \_\_\_\_\_ If Yes, please state the following:

- a. When you became aware of the recall: When Plaintiff received the letter in May 2008
- b. How you became aware of the recall: Received the letter from Caremark

11. Did you discuss the recall with any healthcare provider or pharmacist?

Yes  No  If Yes, please state the following:

a. When that discussion occurred: 5/18/2008

b. With whom: Dr. Mathew. Plaintiff also spoke with Dr. Johnson after that occasion

12. Did you return any Digitek® to Stericycle or any pharmacy?

Yes  No  If Yes, please state the following:

a. When did you return the product? \_\_\_\_\_

b. Do you have your paperwork regarding the return? Yes  No

c. To whom did you return the product? \_\_\_\_\_

13. Have you ever visited a website, chat-room, message board or other electronic forum containing information or discussion about Digitek®?

Yes  No  If Yes, please provide the name of the website: the FDA website

#### **IV. MEDICAL BACKGROUND**

1. Current Height: 5'8"

2. Current Weight: 167 lbs.

3. Approximate weight at the time of your injury: approximately 160 lbs.

4.A. To the best of your knowledge, have you, or any blood-relative family member (child, parent, brother, sister, or grandparent), ever experienced or been diagnosed with any of the following conditions? Please select Yes or No for each condition. For each condition for which you answer Yes, please identify who suffered the condition, you or a relative, and please provide the relative's name and relationship to you. If you suffered the condition, please provide the additional information requested in the table following 4(B): Objection. See attached.

CONDITION EXPERIENCED OR DIAGNOSED	YES	NO	WHO SUFFERED CONDITION
Abnormal heart rhythm, atrial fibrillation, atrial flutter, ventricular fibrillation, or heart block			
Allergic reaction to medication (e.g., skin reaction, rash, or anaphylaxis)			
Blocked, or narrow arteries/plaque buildup/coronary artery disease			
Cardiomyopathy/enlarged heart			
Chest pain/angina			
Congenital heart abnormality			
Congestive heart failure			
Heart attack/MI/myocardial infarction			

CONDITION OR EXPERIENCE D	DATE OF ONSET	MEDICATION/ TREATMENT	TREATING PHYSICIAN AND/OR HOSPITAL
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
C	[REDACTED]	[REDACTED]	[REDACTED]
H	[REDACTED]	[REDACTED]	[REDACTED]
T	[REDACTED]	[REDACTED]	[REDACTED]
N	[REDACTED]	[REDACTED]	[REDACTED]
A	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

5. Please indicate whether you have ever been the subject of any cardiovascular surgeries including, but not limited to, open heart/bypass surgery, CABG, pacemaker or defibrillator implantation, stent placement, vascular surgery, angioplasty, IVC filter placement, carotid (neck) surgery, or valve replacement.

Yes  No  I don't recall  If Yes, please specify the following:

SURGERY	REASON FOR SURGERY	DATE	TREATING PHYSICIAN	HOSPITAL
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

6. Please indicate whether you have ever been the subject of any of the following cardiovascular diagnostic tests or interventions and provide the requested information about each; including, but not limited to, stress test C-reactive protein (CRP); chest X-ray; angiogram/catheterization; CT scan; MRI; EKG; echocardiogram; TEE (trans-esophageal echo); endoscopy; lung bronchoscopy; carotid duplex/ultrasound; MRI/MRA of the head/neck; angiogram of the head/neck; CT scan of the head; bubble/microbubble study; and Holter monitor.

**Objection. Please see attached.**

Yes  No  I don't recall  If Yes, please specify the following:

DIAGNOSTIC TEST/INTERVENTION	REASON FOR TEST/INTERVENTION	DATE	TREATING PHYSICIAN/HOSPITAL	RESULT OF DIAGNOSTIC TEST/INTERVENTION

7. Do you now or have you ever smoked tobacco products? Yes X No \_\_\_\_ If Yes, please specify the following:

- a. How long have/did you smoke? about ten years—quit twenty-five years ago
- b. How much do/did you smoke? about one pack a day

8. Did you drink alcohol (beer, wine, etc.) in the three years before your alleged injury?

Yes X No \_\_\_\_ If Yes, please specify the following:

- a. How often did you drink? about once every two or three months
- b. How much did you drink? about one drink at a time

9. Have you ever used any illicit drugs of any kind within the five (5) years before, or at any time after, your alleged injury?

Yes \_\_\_\_ No X \_\_\_\_ If Yes, identify the substance(s) and your first and last use: \_\_\_\_\_

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**V. ADDITIONAL MEDICATIONS  
(INCLUDING OTHER DIGOXIN PRODUCTS, SUCH AS LANOXIN®)**

1. For any medications, herbal products or supplements other than Digitek® that you took on a regular basis in the ten (10) years prior to, and at the time of, the incidents described in your Complaint, please provide the information requested below:

**Objection.** Please see attached.

NAME OF MEDICATION PRESCRIBED	DOSE	PRESCRIBING PHYSICIAN	DATES OF USE	PURPOSE OF PRESCRIPTION

2. Have you ever experienced any side effects while you were taking any of the medications identified in this section in the past ten (10) years?

Yes  No  If Yes, please specify the following:

- a. The name of the medication: Pacerone

b. The side effect(s): Nausea and vomiting

c. The date the side effect was experienced: approximately February 19, 2006

**V.I. PERSONAL INFORMATION**

1. Current Address and Date when you began living at this address: [REDACTED]

2. Social Security Number: [REDACTED]

3. Date and Place of Birth: [REDACTED]

4. Marital Status: Married

If married, spouse's name, occupation and date of marriage: Raymond Ard; veterinarian; [REDACTED]

If divorced, dates of the marriage, case name/jurisdiction for the divorce: [REDACTED]

Has your spouse filed a loss of consortium in this action? Yes \_\_\_ No X

5. If you have children, please list each child's name and date of birth:

[REDACTED]  
[REDACTED]

6. For any school attended after High School, please provide the following information:

a. School Name: Please see attached.

b. Address: \_\_\_\_\_

c. Dates attended: \_\_\_\_\_

d. Diploma/Degree: \_\_\_\_\_

7. Employment information for the last ten (10) years. Please include employer's name, address, dates of employment, job title, job description and duties:

Owensboro Medical Health System 1/1/1996--present

811 E. Parrish Ave., Owensboro, KY 42303; Advanced Practice Mental Health RN

8. Have you ever served in the military, including the military reserve or National Guard?

Yes \_\_\_ No X

If Yes, were you ever rejected or discharged from military service for any reason relating to your physical condition? Yes \_\_\_ No \_\_\_

If Yes, state the condition for which you were rejected or discharged: \_\_\_\_\_

9. Has any insurance or other company, or Medicare or Medicaid, provided medical coverage to you or paid medical bills on your behalf in the last ten (10) years?

Yes  No  If Yes, please specify the following:

a. The name of the company/agency: \_\_\_\_\_

b. Address: \_\_\_\_\_

c. Dates of Service: Plaintiff has had this insurance for about 12 years.

Medicare--since January 2009

10. Have you applied for workers' compensation (WC) and/or social security disability (SSI or SSD) benefits in the last ten (10) years?

Yes  No  If Yes, please specify the following:

a. Type of claim: \_\_\_\_\_

b. Year application filed: \_\_\_\_\_

c. Agency where application was filed: \_\_\_\_\_

d. Nature of disability: \_\_\_\_\_

e. Time period of disability: \_\_\_\_\_

11. Have you filed a lawsuit or made a claim in the last ten (10) years, other than in the present suit, relating to any bodily injury?

Yes  No  If Yes, please specify the following:

a. Court in which suit/claim filed or made: \_\_\_\_\_

b. Case/Claim Number: \_\_\_\_\_

c. Nature of Claim/Injury: \_\_\_\_\_

12. As an adult, have you been convicted of, or plead guilty to, a felony and/or crime of fraud or dishonesty?

Yes  No  If Yes, please set forth where, when and the felony and/or crime: \_\_\_\_\_

## VII. HEALTHCARE PROVIDERS AND PHARMACIES

- I. Identify each doctor or other healthcare provider who you have seen for medical care and treatment in the past ten (10) years: Objection. Please see attached.

2. Identify each hospital, clinic, or healthcare facility where you were hospitalized (in-patient, out-patient, or emergency room visit) in the past ten (10) years: Objection. Please see attached.

NAME	ADDRESS	ADMISSION DATE (Y)	REASON FOR ADMISSION

3. Identify each pharmacy that has dispensed medication to you in the past ten (10) years;  
**Objection. Please see attached.**

NAME OF PHARMACY	ADDRESS	APPROVED BY COLONIAL PHARMACY

**VIII. DECEASED INDIVIDUALS AND AUTOPSY INFORMATION**

1. If you are filling this out on behalf of an individual who is deceased, please state the following from the Death Certificate of the individual:

(NOTE: In lieu of the following, please attach a copy of the death certificate.)

Date of death: \_\_\_\_\_

Place of death (city, state and county): \_\_\_\_\_

Facility or location where death occurred: \_\_\_\_\_

Name of physician who signed death certificate: \_\_\_\_\_

Cause of death: \_\_\_\_\_

If you are filling this out on behalf of an individual who is deceased and on whom an autopsy was performed, please fill in the information below pertaining to the autopsy and the autopsy report:

(NOTE: In lieu of the following, please attach a copy of the autopsy report.)

Date: \_\_\_\_\_

Performed by: \_\_\_\_\_

Facility where autopsy was performed: \_\_\_\_\_

Place where autopsy was performed (city, state, county): \_\_\_\_\_

Describe any and all tissue preserved: \_\_\_\_\_

**IX. FACT WITNESSES**

1. Please identify all persons who you believe possess information concerning your injury(ies) and current medical conditions, other than your healthcare providers, and please state their name, address and his/her/their relationship to you:

Name: [REDACTED] \_\_\_\_\_

Address: [REDACTED] \_\_\_\_\_

Relationship to you: [REDACTED] \_\_\_\_\_

Name: [REDACTED] \_\_\_\_\_

Address: [REDACTED] \_\_\_\_\_

Relationship to you: [REDACTED] \_\_\_\_\_

Name: [REDACTED] \_\_\_\_\_

Address: [REDACTED] \_\_\_\_\_

Relationship to you: [REDACTED] \_\_\_\_\_

Name: [REDACTED] \_\_\_\_\_

Address: [REDACTED] \_\_\_\_\_

Relationship to you: [REDACTED] \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Relationship to you: \_\_\_\_\_

#### **IX. DOCUMENT DEMANDS**

1. Authorizations: please sign authorizations that are attached hereto as Exhibit A, for each of the healthcare providers that you have identified above in your Answers to §II, Question Nos. 1-3, and § IV, Question No. 2.
2. Documents in your possession, including writings on paper or in electronic form: If you have any of the following materials in your custody or possession, please attach a copy to this Fact Sheet.
  - a. All documents constituting, concerning or relating to product use instructions, product warnings, package inserts, pharmacy handouts or other materials distributed with or provided to you in connection with your use of Digitek®.
  - b. Copies of the entire packaging, including the box and label, for Digitek® and any Digitek® tablets (plaintiffs or their counsel must maintain the originals of the items requested in this subpart).
  - c. All documents relating to your purchase of Digitek®, including, but not limited to, receipts, prescriptions or records of purchase.
  - d. All photographs, drawing, journals, slides, videos, DVDs or any other media relating to your alleged injury.
  - e. Copies of letters testamentary or letters of administration relating to your status as plaintiff (if applicable).
  - f. Decedent's death certificate and autopsy report (if applicable).
  - g. Medical records, bills, correspondence, reports and all other documents from any health care provider who saw, evaluated or treated Plaintiff/Decedent in the last five (5) years.
  - h. All emergency responder, paramedic or EMT reports regarding Plaintiff/Decedent.
  - i. Documents concerning any communication between Plaintiff/Decedent or Plaintiff/Decedent's attorneys or agents and the FDA or any Defendant regarding the events giving rise to the lawsuit or relating to Digitek.
  - j. Non-privileged documents, including any diaries, calendars or notes that record Plaintiff/Decedent's health, use of Digitek or alleged injuries

X. VERIFICATION

*I declare under penalty of perjury* that all of the information provided in this Plaintiff Fact Sheet is true and correct to the best of my knowledge. I have supplied all the documents requested in Part \_\_\_\_ of this declaration, to the extent that such documents are in my possession, custody, or control, or in the possession, custody, or control of my lawyers, and supplied the authorizations attached to this declaration.

Further, I acknowledge that I have an obligation to supplement the above responses if I learn that they are in any material respects incomplete or incorrect.

Date: 7/1/09

[REDACTED]  
Signature

**ATTACHMENT TO  
AMENDED DIGITEK®  
PLAINTIFF FACT SHEET**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### I. CASE INFORMATION

1. Please state the following for the civil action that you filed:

a. Case caption:

On behalf of themselves and all others similarly situated within the Commonwealth of Kentucky; CARLA YORK and HAROLD RICHARDSON, Co-Executors of THE ESTATE OF EARL LONEY; JUDY A. WHITAKER, as the Executrix of THE ESTATE OF ANNA FIGHT; IRMA WRIGHT; VETA COON; LORENA ARD; and MARY BOND v. ACTAVIS TOTOWA, LLC; MYLAN PHARMACEUTICALS, INC.; and UDL LABORATORIES, INC.

1. d. Your attorney:

Name: Lawrence L. Jones II

Address: Bahe Cook Cantley & Jones PLC, Kentucky Home Life Building,  
239 South Fifth Street, Suite 700, Louisville, KY 40202

AND

Name: Christopher L. Rhoads

Address: Rhoads and Rhoads, P.S.C.

115 East Second St., Suite 100, P.O. Box 2023, Owensboro, KY 42302

### III. DIGITEK® PRESCRIPTION INFORMATION

9. Have you ever used any other digoxin or digitalis product (i.e. Lanoxin)?

Yes X No \_\_\_\_\_

This information is based on Ms. Ard's own recollection. She has attached a medical release. Defendant may obtain and review her records for more information.

### IV. MEDICAL BACKGROUND

4.A. To the best of your knowledge, have you, or any blood-relative family member (child, parent, brother, sister, or grandparent) ever experienced or been diagnosed with any of

**Terra Haute, IN  
M.P.A. 1987**

**Indiana University  
Indianapolis, IN  
M.S. Nursing 1997**

**VII. HEALTHCARE PROVIDERS AND PHARMACIES**

1. Identify each doctor or other healthcare provider who you have seen for medical care and treatment in the past ten (10) years:

**Objection.** Plaintiff objects on the grounds that this question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information, gathered from her own memory. Plaintiff may not have knowledge or recollection all of the providers, nor have specific information regarding them. More information may be available in the attached records. Furthermore, Plaintiff has executed and attached the medical release. Defendant is free to obtain and review Ms. Ard's medical records for further information regarding her healthcare providers.

NAME AND SPECIALTY	ADDRESS	REASON FOR VISIT	APPROX DATES/YEARS OF VISITS
David Johnson, MD	Bluegrass Internal Medicine 1000 Breckinridge St., Suite 401 Owensboro, KY 42303		2006-present
Roshon Mathew Cardiologist	Green River Heart Institute 815 E. Parrish Ave Owensboro, KY 42303		2006-present
John Hast Gastroenterologist	Hwy 54 Springs		2006—present
William O'Bryan	1000 Breckinridge St., Ste. 300 Owensboro, KY		8 years (yearly)
Dr. Milsap Ophthalmologist	New Hartford Rd. Owensboro, KY		Yearly

2. Identify each hospital, clinic, or healthcare facility where you were hospitalized (in-patient, out-patient, or emergency room visit) in the past ten (10) years:

**Objection.** Plaintiff objects on the grounds that this question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information, gathered from her own memory and the medical records. Plaintiff may not have specific recollection of each hospitalization, nor have specific information regarding them. The following information, therefore, is completed to the best of her knowledge and recollection. Plaintiff has executed and attached the medical release. Defendant is free to obtain and review medical records for further information regarding Ms. Ard's healthcare providers.

NAME	ADDRESS	ADMISSION	REASON FOR ADMISSION
Jewish Hospital	200 Abraham Flexner Way Louisville, KY 40202	[REDACTED]	[REDACTED]
Owensboro Medical Health System (OMHS)		[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

3. Identify each pharmacy that has dispensed medication to you in the past ten (10) years:

**Objection.** This question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information based on her own recollection. Additionally, Plaintiff also executed and attached a medical release. Defendant is free to obtain and review Ms. Ard's records for further information.

NAME OF PHARMACY	ADDRESS	APPROXIMATE DATES/YEARS YOU USED PHARMACY
CVS Caremark Prescription Services		
Buehlers Pharmacy		